



Education
Choice & Innovation

Committee Meeting
February 21, 2006

Meeting Packet



The Florida House of Representatives

Education Council

Choice & Innovation Committee

Allan G. Bense
Speaker

John Stargel
Chair

MEETING AGENDA

February 21, 2006

214 Capitol, 1:00-4:00 PM

I. Call to Order

II. Chairman's Remarks

III. Consideration of the following bills:

- **PCB CI 06-02 by Stargel -- Scholarship Program Accountability**
- **HB 75 by Bilirakis -- John M. McKay Scholarships for Students with Disabilities Program**
- **HB 665 by Troutman -- Florida Virtual Schools**
- **PCB CI 06-01 by Stargel -- K-8 Virtual Schools**
- **HB 429 by Proctor -- Florida School for the Deaf and the Blind**
- **HB 765 by Jennings -- Discounted Computers and Internet Access for Students**

IV. Closing Comments

V. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CI 06-02 Scholarship Accountability
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee		Hassell	Kooi
1) _____	_____	_____	_____
2) _____	_____	_____	_____
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SUMMARY ANALYSIS

The bill substantially amends provisions relating to the John M. McKay Scholarships for Students with Disabilities Program and the Corporate Income Tax Credit (CITC) Program.

The bill adds new fiscal and academic accountability requirements including provisions related to private school eligibility requirements, responsibilities for the Department of Education, responsibilities of parents and students, and responsibilities of eligible nonprofit scholarship funding organizations.

The bill creates a new section of law that provides for the obligations of all private schools participating in state school choice scholarship programs. These requirements include having each employee and contracted personnel with direct student contact, defined as having unsupervised access to a scholarship student for whom the private school is responsible, undergo a state and national background screening.

The bill directs the Florida Department of Law Enforcement to adopt a rule setting the annual fee to be imposed upon participating private schools for participation in the fingerprint search process and to establish procedures for the retention of the fingerprints and the dissemination of the results.

The bill will have a minimal fiscal impact on the Department of Education and private schools. Please see the FISCAL ANALYSIS and the DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR section of this analysis.

The bill shall be effective on becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the Department of Education's regulatory responsibilities related to scholarship programs. The bill also grants the Commissioner of Education the authority to deny, suspend, or revoke a private school's participation in state school choice programs.

Empower families – The bill provides parents of students with disabilities and parents of low-income students who qualify for free or reduced-price school lunches with the opportunity to exercise parental choice by sending their child to a private or public school of choice.

Safeguard individual liberty – The bill maintains parental choice by providing for private and public school options for parents of public school students.

B. EFFECT OF PROPOSED CHANGES:

The Chief Financial Officer (CFO) conducted audits on the McKay and CITC programs in 2003 and found problems with the administration of the programs. The CFO issued a report of his findings on December 10, 2003. The findings include: the lack of program oversight from the DOE; students receiving scholarships from more than one program; the transfer of funds between Scholarship Funding Organizations (SFOs); SFOs not basing the amount of contributions received on the amounts needed to fill identified scholarships; principals of SFOs with no apparent physical location in Florida; and internet schools, home schools, and correspondence schools participating in the program.

In response to the CFO report, in May 2004, the Department of Education announced an action plan that includes requiring all participating private schools to complete an annual scholarship compliance form documenting that private schools are fully compliant with private school and scholarship program law before enrolling students or receiving payments, regularly cross-checking student participation to avoid enrollment and funding duplication, providing information and access to information to parents for decision making, supporting private school and SFO efforts to self-regulate, and adopting rules for operational practices and policies. The DOE has since implemented this plan.

The John M. McKay Scholarship for Children with Disabilities (1002.39, F.S.)

The John M. McKay Scholarships for Students with Disabilities Program (McKay Program) was originally created by the 1999 Legislature as a pilot program for Sarasota County in the A+ Education Plan. The program has since been expanded to cover the entire state. For fiscal year 2005-2006, there are 727 schools participating schools and 16,144 scholarship recipients.¹

Student Eligibility

Generally

Currently, the McKay Program provides an option for students with disabilities, for whom an individual education plan has been written, to either attend a public school other than the one to which assigned, or to receive a scholarship to attend a private school of choice. Students with disabilities include K-12 students who are mentally handicapped, speech and language impaired, deaf or hard of hearing,

¹ www.floridaschoolchoice.org/Information/McKay?program_statistics.asp

visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospitalized or homebound, or autistic.

The bill revises the definition of students with disabilities to reflect the terminology for disabilities as they are used in the federal regulations.² This bill makes ineligible those students whose only qualifying disability was that they were hospitalized or homebound. It does not affect the eligibility of students who would otherwise qualify for a McKay scholarship under any of the other enumerated categories. It is worth noting that there may be some students that meet the definition of students with disabilities but are not eligible for a McKay scholarship because the student does not meet the requirements for an individual education plan.

Currently, a public school student with disabilities is eligible to receive a McKay scholarship if the student's parent is dissatisfied with the student's progress, the student has spent the prior school year in attendance at a Florida public school, and the parent has obtained acceptance for the student at an eligible private school.³ Students enrolled in Department of Juvenile Justice (DJJ) commitment programs are ineligible to receive a McKay scholarship during the period of enrollment in the commitment program.

Current law is unclear as to whether a student that has met the McKay scholarship eligibility requirements is eligible to participate in the program immediately upon dismissal from a DJJ commitment program. According to the Department of Education (DOE), implementation of current law has been that "the time in which a student was enrolled in a DJJ commitment program would not 'count' as the required prior year of enrollment in public schools; therefore students dismissed from a DJJ commitment program are only eligible for a McKay scholarship after being in attendance and reported for funding in a regular public school for both the October and February surveys."⁴ Accordingly, under current practice, the DOE does not consider a school in a DJJ commitment program to be a Florida public school for purposes of eligibility for the McKay scholarship.

Under this bill, "prior school year attendance" at any Florida public school will qualify; assignment is not a requirement. This bill clarifies that "prior school year in attendance" includes time spent in a DJJ commitment program if funded under the Florida Education Finance Program (FEFP). Prior school year attendance at the Florida School for the Deaf and Blind (FSDB) and time spent by a 4 year old child with disabilities in an FEFP funded program will also qualify.

Current law provides that for the continuity of educational choice, the scholarship remains in effect until the student returns to a public school or graduates from high school. However, the bill provides that the term of the scholarship may be until the student returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first. The bill also allows a parent, upon reasonable notice to the DOE and school district, to remove the student from a private school and place the student in a public school and/or transfer the student from one participating private school to another.

It is not prohibited in current law for students to receive funding from more than one scholarship program. The bill revises such eligibility, stating that a student is ineligible for a McKay scholarship while he or she is:

- Enrolled in a DJJ commitment program.
- Receiving a CITC scholarship or a scholarship under chapter 1002, F.S.
- Participating in a home education or a private tutoring program.

² See 34 C.F.R. s. 300.7(c)

³ s. 1002.39(2)(a), F.S., defines "prior school year in attendance" to mean that the student was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12.

⁴ Florida Department of Education, Governmental Relations Office, 2004 Legislative Bill Analysis on HB 1579: John M. McKay Scholarships for Students with Disabilities Program.

- Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the student's participation is limited to no more than two courses per school year.
- Enrolled in the Florida School for the Deaf and Blind.

Parent and Student Responsibilities

Current law requires that any student participating in the McKay Program comply with the school's code of conduct and that the parents of scholarship students fully comply with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

The bill requires each parent and each student to comply with the private school's published policies.

The bill adopts a recommendation by the CFO that requires parents to restrictively endorse the scholarship warrant upon receipt to the private school. It also prohibits a parent from designating any entity or individual associated with the participating private school as the parent's attorney in fact to endorse the warrant.

Private School Eligibility and Obligations

Private schools are not required to participate in the program; however, participation is open to all private schools. The bill provides that failure to meet the following requirements constitutes a basis for the ineligibility of the private school to participate in the McKay Program:

- Comply with the newly created section 1002.421 detailing the rights and obligations of private schools participating in state school choice scholarship programs,⁵
- Annually provide the parent with a written explanation of the student's progress,
- Cooperate with a student whose parent chooses to have the student participate in the statewide assessment pursuant to s. 1008.22, F.S.⁶, and
- Submit all documentation to the DOE for a student's participation at least 30 days prior to the first quarterly scholarship payment.

Amount of Award

The amount of the scholarship is unchanged in this bill and is equal to the amount the student would have received under the FEFPP in the public school to which the student is assigned or the amount of the private school's tuition and fees, whichever is less. During the 2001-2002 school year, \$27.8 million was awarded to 5,019 McKay scholarship recipients for an average award amount of \$5,547 per student. During 2002-2003, \$53 million was awarded to 9,130 scholarship recipients for an average award amount of \$5,840 per student. During the 2003-2004 school year, \$81.2 million was awarded to 13,739 scholarship recipients for an average reward amount of \$5,951 per student. During the 2004-2005 school year, \$101.0 million was awarded to 14,338 scholarship recipients for an average award amount of \$7,043.

Funding and Payment

Currently, there are no provisions for the calculation of payment for former students of the FSDB. This bill provides that the scholarship amount for a student who has spent the prior year in attendance at the FSDB will be calculated in the same manner as any other McKay scholarship, except that the calculation is based on the school district in which the parent resides at the time of the scholarship request. The bill requires school districts to report to the DOE the scholarship students that are former students of the FSDB who are attending a private school. Also, the school districts are held harmless

⁵ See "Rights and Obligations" section of the analysis beginning on page 12.

⁶ s. 1008.22, F.S., Student Assessment Program for Public Schools

for these students from the weighted enrollment ceiling for group 2 programs during the first school year in which the students are reported.⁷ The bill prohibits the transfer of funds from the FSDB for students to participate in the program.

The bill also clarifies funding for students exiting a DJJ commitment program. It provides that the funds used to provide scholarships to eligible students exiting a DJJ commitment program will come from the school district in which the student last attended a public school prior to commitment.

The bill clarifies that districts are responsible to report all students attending a private school on a McKay Scholarship within their district each year.

Some private schools require pre-paid amounts of tuition to reserve seats in the class. This bill eliminates DOE funding of pre-paid tuition for McKay scholarship recipients. This bill also changes the payment date for scholarship payments from the CFO from April 15 to April 1. This change makes the April payment consistent with the other three scholarship payments, which are made on the first day of September, November, and February, respectively.

Subsequent to each scholarship payment, the Department of Financial Services (DFS) is required to randomly review endorsed warrants to confirm compliance with endorsement requirements. DFS must immediately report inconsistencies or irregularities to the DOE.

Program Oversight

Currently, the DOE is responsible for verifying the student's initial admission acceptance and continued enrollment and attendance at the private school. The CFO can only make the scholarship payments after proper verification from the DOE. The payment must be made by individual warrant payable to the student's parent and mailed by the DOE to the chosen private school. The parent must restrictively endorse the warrant to the private school.

The bill proposes to make the following changes in program oversight:

School District Obligations

- Requires notification to parents by April 1 of each year and within 10 days of the student's individual education plan meeting of all education choice options, and of the availability of the department's telephone hotline and website for additional information on the McKay Program. This will give parents the time to explore the educational options, including public and private school options, available for their child.
- Provides that a student's matrix of services may only be changed to correct a technical, typographical, or calculation error. This provides parents with a degree of certainty in the level of services and the level of funding their child will receive while participating in the scholarship program.
- Requires notification to parents of students receiving a scholarship of the availability of a reevaluation at least every 3 years. This provision does not require a student to be reevaluated; rather, it provides for reevaluation if the parent chooses to have the student reevaluated.

⁷ s. 1011.62(1)(d)3.a., F.S., provides for the maximum amount of special program weighted FTE students which may be funded for operations.

Department of Education Obligations

- Requiring the DOE to establish a toll-free hotline to provide information to parents and private schools on the McKay Program. This provision would codify current practice.
- Requires the DOE to annually verify that private schools meet the eligibility requirements outlined in statute.
- Requires the DOE to establish a process that allows for individuals to notify the DOE of violations of state laws relating to program participation. This provision also requires the DOE to conduct inquiries of written complaints, or to refer them to the appropriate agency, if the complaint is signed by the complainant and is legally sufficient. These inquiries are not subject to the requirements of ch. 120, F.S.
- Requires the DOE to annually receive from every participating private school a notarized, sworn compliance statement certifying compliance with state laws and to retain such forms. The DOE must ensure that participating private schools submit their sworn compliance forms each year. This is a codification of the sworn compliance form process instituted by the DOE during the summer of 2003 and provided for in State Board of Education rule.
- Requires the DOE, prior to the first scholarship payment, to cross-check the list of participating private scholarship students to the public school enrollment lists. This provision addresses the CFO's finding that students receiving scholarships were also counted as public school students.

Commissioner of Education Authority

- Grants the Commissioner of Education the authority to deny, suspend, or revoke a private school's participation in the scholarship program and to take other action as necessary to ensure compliance with the provisions of statutes. It also provides for procedures and timelines for the Commissioner and the private school to follow in administrative proceedings.
- Provides for authority to immediately suspend payment of scholarship funds if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of the students or if there is fraudulent activity on the part of the private school. This bill also provides for procedures and timelines for appeal of such action.

Corporate Income Tax Credit Scholarship Program (s. 220.187, F.S.)

The Corporate Income Tax Credit Scholarship Program (CITC Program) provides an income tax credit for corporations that make eligible contributions to nonprofit scholarship-funding organizations (SFOs). SFOs award scholarships to students from families with limited financial resources as demonstrated by the student qualifying for free or reduced-price school lunches. For fiscal year 2005-2006, there are 852 schools participating schools and 13,497 scholarship recipients.⁸

Tax Credits

Current law provides a number of requirements and limitations related to tax credits. For instance, a taxpayer may not designate a specific child as the beneficiary of the contribution and may not contribute more than \$5 million to any single eligible SFO. The total statewide amount of the tax credit and the carryforward of tax credits that may be granted each state fiscal year under this program is

⁸ www.floridaschoolchoice.org/Information/McKay?program_statistics.asp

limited to \$88 million. At least 5% of the total statewide amount authorized for the tax credit must be reserved for small businesses.⁹

The bill modifies the above provisions as follows:

- Allows a taxpayer's eligible contribution to a single SFO to exceed \$5 million.
- Limits the total amount of allowable tax credits to \$88 million for the 2006-2007 fiscal year.
 - Provides that in each year thereafter the total amount of allowable tax credits and carryforward of tax credits shall be adjusted annually by the percent increase or decrease in total FEFP funds as provided in the General Appropriations Act workpapers, not to exceed 5% in any year. The maximum increase in 2006-07 would be \$4.4 million (\$88 million x 5.0%).
 - Requires the Commissioner of Education to certify to the Department of Revenue (DOR) and the SFO of the resulting value of tax credits within 30 days after the General Appropriations Act becomes law.
- Reduces the amount of the total tax credit allocation reserved for small business from 5% to 1%.

The bill allows a taxpayer to rescind all or part of his or her tax credit allocation under certain circumstances. This provision also provides that any amount rescinded shall become available to an eligible taxpayer on a first-come, first-served basis based on tax credit applications received after the date the rescindment is accepted by the DOR.

Student Eligibility

Generally

A student is eligible for a scholarship from an eligible SFO through this program if the student qualifies for free or reduced-price school lunch under the National School Lunch Act, and:

- Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding; or
- Received a scholarship from an eligible SFO or the State of Florida during the previous school year; or
- Is eligible to enter kindergarten or first grade.

Based on available funds, the bill provides that a scholarship student will not lose his or her scholarship due to a change in the economic status of the student's parents unless the parent's economic status exceeds 200% of the Federal poverty guidelines.

It is not prohibited in current law for students to receive funding from more than one scholarship program. The bill revises such eligibility, stating that a student is ineligible for a CITC scholarship while he or she is:

- Enrolled in a DJJ commitment program.
- Receiving a CITC scholarship or a scholarship under chapter 1002, F.S.
- Participating in a home education or a private tutoring program.
- Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the student's participation is limited to no more than two courses per school year.

⁹ According to current law, small businesses are defined as taxpayers who independently own and operate businesses that employ 200 or fewer full-time permanent employees and have a net worth of not more than \$5 million at the time of application.

- Enrolled in the Florida School for the Deaf and Blind.

Parent and Student Responsibilities

As a condition for scholarship payment, current law requires that a parent inform the school district within 15 days after deciding to send his or her child to a nonpublic school; however, current law places few other responsibilities upon parents. The bill provides the following parent and student responsibilities for participation in the CITC Program:

- A parent is required to select an eligible private school, apply for admission, and notify the student's school district upon withdrawal.
- Students are required to attend school throughout the school year unless excused by the school for illness or other good cause. Each parent and each student is required to comply with the private school's published policies.
- Parents are required to ensure scholarship student participation in the norm-referenced assessment offered by the private school. Also, parents are given the option to choose to have their child to participate in the statewide assessments pursuant to s. 1008.22.
- Based on a recommendation by the CFO, parents are required to restrictively endorse the scholarship warrant upon receipt to the private school. This provision prohibits a parent from designating any entity or individual associated with the participating private school as the parent's attorney in fact to endorse the warrant.

Amount of Award

Current law provides that the amount of the scholarship provided to any child for any single school year by all eligible SFOs shall not exceed the following limits:

- \$3,500 for a scholarship awarded to a student for enrollment in an eligible nonpublic school.
- \$500 for a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides.

The bill maintains current law which requires that the SFO make payment by warrant or check payable to the student's parent. The bill requires that the warrant or check be delivered by the SFO to the private school of the parent's choice, and that the parent restrictively endorse the warrant or check to the private school. SFOs are still required to ensure that the parent to whom the warrant or check is made payable endorse the check to the private school for deposit into the school's account.

The bill revises the scholarship award to \$3,750 for enrollment in an eligible private school. It also requires SFOs to obtain verification from the private school the scholarship student's continued attendance prior to each scholarship payment and to make such payments on no less than a quarterly basis.

Scholarship Funding Organization

Currently, there is no requirement that SFOs be Florida corporations and out-of-state corporations are permitted. Upon recommendation by the CFO, the bill requires a SFO to be a Florida entity formed under chapter 607, chapter 608, or chapter 617, whose principal office is located in the state. Additionally, the bill requires that SFOs comply with antidiscrimination provisions of 42 U.S.C. s. 2000d, which prohibit discrimination based on race, color, or national origin.

Current law does not define or address the role of owners and operators of SFOs. The bill defines the term "owner or operator" of a SFO to include an owner, president, directors, officers, or other person with the equivalent decision making authority over a SFO. Also, it provides that an owner or operator may not own or operate a private school that is participating in the CITC program. However, this provision may not be enough to prevent related party transactions as recommended in the CFO's

recommendations because persons related to a SFO owner, like a spouse or child, can own or operate a private school receiving scholarship funds.

Moreover, owners or operators are required to comply with the following background requirements:

- Submit to a level 2 background screening as provided under chapter 435.¹⁰ The fingerprints are to be submitted to the Florida Department of Law Enforcement (FDLE). The results of the screening are required to be provided to the DOE. An owner or operator that fails the level 2 background screening is ineligible to provide CITC scholarships.
- Submit to background screenings every 5 years and the fingerprints are to be retained by the FDLE as part of the statewide automated fingerprint identification system. Any arrest record of the owner or operator must be reported to the DOE.
- Not have filed for personal bankruptcy or corporate bankruptcy within the last 7 years. In the case of corporate bankruptcy, however, the individual must have owned more than 20% of the corporation.

Determination of Scholarship Recipients

Currently, SFOs give priority to eligible students who received a CITC scholarship during the previous school year; however, there are no statutory provisions pertaining to SFOs directing the scholarship to a particular school, student, or owner.

The bill maintains the current law requiring SFOs to give priority to eligible students who received a CITC scholarship during the previous school year. However, the bill requires that SFOs provide scholarships on a first-come, first-served basis unless the student is a returning student from the previous school year. Also, the bill prohibits SFOs from restricting or reserving a scholarship for use at a particular private school or from providing a scholarship to a child of an owner or operator. Further, students are allowed to attend any eligible private school and transfer to any other eligible private school at any time.

SFO Fiscal Accountability

The bill contains a number of provisions that address fiscal procedures and accountability by SFOs.

Current law provides that SFOs that receive an eligible contribution must spend 100% of the eligible contribution to provide scholarships in the same state fiscal year in which the contribution was received. This bill revises the SFOs use of eligible contributions. The bill requires SFOs to obligate, in the same fiscal year in which the contribution was received, 100% of the contribution to provide scholarships provided that up to 25% of the total contribution may be carried forward for scholarships to be granted in the following state fiscal year. This provision allows for SFOs to commit funds, particularly those received toward the end of the fiscal year, to the next state fiscal year for future scholarships rather than requiring SFOs to spend all of the eligible contributions within the same state fiscal year in which they were received.

The bill requires SFOs to maintain separate accounts for scholarship funds and operating funds, which will prohibit the commingling of scholarship and operating money.

The bill provides for the transfer of funds to another eligible SFO when additional funds are required to meet scholarship demands. However, a transfer is limited to the greater of \$500,000 or 20% of the total contributions received by the SFO making the transfer. This provision allows for flexibility in the

¹⁰ See s. 435.04, F.S. for level 2 screening standards.

transfer of funds between eligible SFOs and should result in an increased ability to match eligible contributions with eligible students.

Current law requires that all SFOs submit annual audits conducted by an independent certified public accountant to the Auditor General (AG) each year. This bill increases fiscal accountability requirements by imposing a specific time frame, 180 days, for audit submission, requiring submission of the audit to the DOE as well as the AG, and by specifying certain audit procedures.

The bill requires all SFOs to submit quarterly reports to the DOE regarding the number of students participating, the names of the private schools in which they are enrolled, and any other information the DOE may require. No quarterly report requirement exists in current law. This provision will allow the DOE to track scholarship program activity. Also, it clarifies that SFOs are required to comply with all requests for information by the DOE.

The bill provides that confidential information provided to the DOE and the AG pursuant to this section shall remain confidential.

Private School Eligibility and Obligations

Current law provides that a private school is eligible to receive a scholarship student if the school:

- Is located in Florida.
- Offers an education to students in any grades K-12.
- Demonstrates fiscal soundness by being in operation for one school year, providing the DOE with a statement by a certified public accountant confirming that the school is insured and has sufficient capital or credit to operate for the upcoming year, or securing a surety bond or letter of credit equal to the scholarship funds for any quarter to be filed with the DOR.
- Complies with antidiscrimination provisions of 42 U.S.C. s. 2000d.
- Adheres to state and local health and safety laws and codes.
- Complies with all state laws relating to the general regulation of nonpublic schools.

The bill defines the term “owner or operator” of a participating private school to include an owner, operator, superintendent, principal, or person with the equivalent decision making authority, who owns or operates an eligible private school.

Private schools are not required to participate in the program; however, participation is open to all private schools. The bill provides that failure to meet the following requirements constitutes a basis for the ineligibility of the private school to participate in the CITC Program:

- Comply with the newly created section 1002.421 detailing the rights and obligations of private schools participating in state school choice scholarship programs,¹¹
- Annually provide the parent with a written explanation of the student's progress,
- Annually administer or make provisions for students to participate in one of the nationally norm-referenced tests identified by the DOE, and report the student's scores to the parent and to an independent private research organization selected by the DOE,
- Cooperate with a student whose parent chooses to have the student participate in the statewide assessment pursuant to s. 1008.22, F.S.¹², and
- Submit all documentation, upon request, to the SFO for a student's participation.

The bill exempts students with disabilities for whom standardized testing is not appropriate from the requirement that private schools administer a nationally norm-referenced test to all CITC scholarship students within their school.

¹¹ See “Rights and Obligations” section of the analysis beginning on page 12.

¹² s. 1008.22, F.S., Student Assessment Program for Public Schools

Program Oversight

Current law provides that the DOR and the DOE will cooperatively administer the CITC Program. The DOE is responsible for adopting rules necessary to determine the eligibility of SFOs and identifying students eligible to participate in the program. The DOR is responsible for adopting rules to administer the CITC Program such as establishing application forms and procedures and governing the allocation of tax credits and carry-forward credits for this program on a first-come, first-served basis. The DOE is also responsible for submitting annually, by March 15, a list of eligible SFOs to the DOR and monitoring the eligibility of SFOs, nonpublic schools, and expenditures.

Department of Education Obligations

The DOE's obligations can be broken down into those dealing primarily with fiscal oversight and those related to academic oversight; however, some of the oversight requirements do affect both fiscal and academic issues.

Fiscal Oversight

- Requires the DOE to establish a process that allows for individuals to notify the DOE of violations of state laws relating to program participation. This provision also requires the DOE to conduct inquiries of written complaints, or to refer them to the appropriate agency, if the complaint is signed by the complainant and is legally sufficient. These inquiries are not subject to the requirements of ch. 120, F.S.
- Requires the DOE to annually receive from every participating private school a notarized, sworn compliance statement certifying compliance with state laws and to retain such forms. The DOE must ensure that participating private schools submit their sworn compliance forms each year. This is a codification of the sworn compliance form process instituted by the DOE during the summer of 2003 and provided for in State Board of Education rule.
- Requires the DOE to cross-check the list of participating private scholarship students to the public school enrollment lists. This provision addressed the CFO's finding that students receiving scholarships were also counted as public school students.
- Requires the DOE to notify any SFO if one of its recipients is also receiving scholarship monies from an educational scholarship pursuant to chapter 1002, or from another SFO. This provision complements the provisions elsewhere in the bill that require SFOs and participating private schools to provide notification of any instances of student enrollment in more than one program.
- Requires that the DOE receive from each SFO a quarterly report detailing the number of participating students and the private schools in which they are enrolled, and any other information the DOE deems necessary. The DOE must ensure that all SFOs submit these quarterly reports. This provision will codify current operational practice.

Academic Oversight

- Requires the DOE to annually verify, rather than monitor, that SFOs and private schools meet eligibility requirements and verify the eligibility of expenditures.
- Requires the DOE to establish a toll-free hotline providing information on participation in the CITC Program.
- Requires the DOE to select nationally norm-referenced tests that are comparable to the norm-referenced test portions of the Florida Comprehensive Assessment Test (FCAT). One of the

tests selected may be the FCAT. This provision implements part of the nationally norm-referenced testing program for scholarship recipients found elsewhere in the bill in that it requires DOE to proactively identify which standardized tests will fulfill the requirement for testing.

- Requires the DOE to select an independent research organization to analyze and report annually to the DOE on the year-to-year improvement of participating students. The provision requires that the scores from the nationally norm-referenced tests be forwarded to the independent research organization and that in the course of its analysis the research organization must not disaggregate the data in such a way as to identify the academic level of individuals or individual schools. Independent research organizations are required to accumulate historical performance data and conduct longitudinal studies. This provision provides a mechanism for annually and longitudinally monitoring academic performance of the scholarship program. The independent research organizations are required to analyze and report student data in compliance with the Family Educational Rights and Privacy Act.¹³
- Requires the DOE to conduct analysis of matched students from public school assessment data and calculate control group learning gains using an agreed upon methodology between the third party evaluator and the DOE. The sharing of data must be in accordance with Family Educational Rights and Privacy Act requirements and shall be used solely for the purpose of comparing the progression of scholarship students to their public school counterparts. This provision substantially reduces the cost of the independent research organization's services to the DOE.

Commissioner of Education Authority

- Grants the Commissioner of Education the authority to deny, suspend, or revoke a private school's participation in the scholarship program and to take other action as necessary to ensure compliance with the provisions of statutes. It also provides for procedures and timelines for the Commissioner and the private school to follow in administrative proceedings.
- Provides for authority to immediately suspend payment of scholarship funds if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of the students or that there is fraudulent activity on the part of the private school. This bill also provides for procedures and timelines for appeal of such action.

State Board of Education

Requires the State Board of Education (SBE) to adopt rules to implement the provisions of the statute relating to the CITC Program, clarifying the SBE's rulemaking authority.

Rights and Obligations of Private Schools in State School Choice Scholarship Programs

The bill creates this new section of law that sets out general guidelines for participation by private schools in the CITC Program, pursuant to s. 220.187, F.S., and in all educational choice scholarship programs provided in chapter 1002. The new section has compiled some of the current statutory requirements for private schools in the various scholarship programs and has added a number of new requirements. The requirements for participating private schools can be grouped as follows:

General Requirements

- Be a Florida private school, as defined in s. 1002.01(2), F.S.

¹³ 20 U.S.C s. 1232g

- Be registered as a Florida private school pursuant to s. 1002.42, F.S.
- Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.
- Comply with applicable state and local health, safety, and welfare laws, codes, and rules, including fire and building safety, and
- Meet all requirements outlined in this proposed section.

Notifications to the DOE

- Requires notification of its intent to participate in a scholarship program.
- Requires notification within 15 days of any change in the school's name, school director, mailing address, or physical location.
- Requires the annual completion and submission to the DOE of a notarized scholarship compliance statement certifying that all school employees and contracted personnel have undergone background screening pursuant to s. 943.0542.
- Requires the completion of student enrollment and attendance verification requirements, including using an on-line attendance verification form, prior to scholarship payment.

Fiscal Accountability

- Requires demonstration of fiscal soundness and accountability by being in operation for at least 3 school years or obtaining a surety bond or letter of credit for the amount equal to the scholarship funds for any one quarter and filing the bond or letter of credit with the DOE.
 - This increases the number of years a school must have been in operation to prove fiscal soundness and specifies the means by which scholarship monies are to be secured against unlawful uses when a school has been in operation less than 3 years.
 - The surety bond or letter of credit secures the scholarship monies paid to the school should it be found that the funds were used for improper purposes
- Requires parents to restrictively endorse the scholarship warrant upon receipt to the private school, as recommended by the CFO. It also prohibits a parent from designating any entity or individual associated with the participating private school as the parent's attorney in fact to endorse the warrant.

Educator Eligibility

- Maintains current law requiring private schools to employ or contract with teachers that meet any one of the following criteria: 1) hold a baccalaureate or higher degree, 2) have at least 3 years of teaching experience in public or private schools, or 3) have special skills, knowledge, or expertise in subjects taught. This provision allows for nontraditional teachers to bring their special skills, knowledge, or expertise in certain subjects to the classroom.

Background Screening

- Requires each employee and contracted personnel with direct student contact, defined as having unsupervised access to a scholarship student for whom the private school is responsible, undergo a state and national background screening.¹⁴ Provides for an exemption for persons holding a valid teaching certificate who have been fingerprinted pursuant to s. 1012.32, F.S.

¹⁴ See s. 943.0542, F.S.

- Requires any employee or contracted personnel that fails to meet the screening standards pursuant to s.435.04, F.S. to be denied employment or terminated. Also provides a participating private school that continues the employment of such person is ineligible to participate in a scholarship program.
- Requires the fingerprints to be submitted to the FDLE and the results to be provided to the participating private school. The state is not responsible for the cost of the fingerprinting and background check.
- Beginning July 1, 2007, the bill requires the FDLE to retain all fingerprints submitted as part of the statewide automated fingerprint identification system, and to search all arrest fingerprint cards received under s. 943.021 against all fingerprints retained in the statewide identification system. Requires FDLE to report to the employing school the arrest record of a person that is identified with the retained fingerprints.
- Requires participating private schools to notify the FDLE of any change in the employment status of its personnel whose fingerprints are retained by FDLE. The fee assessed by the FDLE is the responsibility of the private school or the person fingerprinted.
- Provides that the FDLE adopt a rule setting the annual fee that will be imposed upon participating private schools and to establish procedures for the retention of the fingerprints and the dissemination of the results.
- Requires those personnel whose prints are not retained by the FDLE to be reprinted and to meet the background requirements upon reemployment or reengagement to provide services. Requires employees and contracted services personnel to be screened every five years. Provides that the private school request the FDLE to forward the fingerprints to the FBI for processing.

Failure to meet requirements

- Provides that failure to meet these requirements outlined in this section constitutes a basis for the ineligibility to participate in the scholarship programs as determined by the DOE.

Regulatory authority

- Provides that the inclusion of private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or school districts to impose additional requirements beyond those reasonably necessary to enforce the requirements expressed in this section.

State Board of Education

- Provides that the SBE adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to administer this section.

C. SECTION DIRECTORY:

Section 1. Amends s. 1002.39, F.S., relating to the John M. McKay Scholarship for Students with Disabilities Program.

Section 2. Amends s. 220.187, F.S., relating to the Corporate Income Tax Credit Scholarship Program.

Section 3. Creates s. 1002.421, F.S., relating to the rights and obligations of private schools participating in state school choice scholarship programs.

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill requires the DOE to identify nationally norm-referenced tests that are comparable to the norm-referenced test portions of the Florida Comprehensive Assessment Test (FCAT) provided that one of the tests selected may be the FCAT. The DOE is also required to contract with an independent research organization to receive and analyze the results of the nationally norm-referenced tests taken by the CITC Program scholarship recipients. The DOE is required to conduct analysis of matched students from public school assessment data and calculate control group learning gains using an agreed upon methodology between the third party evaluator and the DOE. The costs associated with these requirements are indeterminate at this time.

School districts reporting transfer students from the FSDB are held harmless from the weighted enrollment ceiling pursuant to s. 1011.62(1)(d)3.a. Therefore, state expenditures to a district for providing instruction to students in special programs could exceed the established ceiling. The amount is indeterminate but presumed small because of the relatively small number of students involved.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

See "Fiscal Comments" section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill places no requirements upon private schools that choose not to participate in the state school choice scholarship programs. However, private schools that choose to participate in the McKay Program, CITC Program, or any other state school choice scholarship program are eligible to receive state-funded scholarship students and are responsible for complying with the private school requirements contained in this bill. The requirements will result in some compliance costs.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill gives the SBE rulemaking authority pursuant to ss. 120.536(1) and 120.54, F.S., to adopt rules for implementing provisions of the law relating to the CITC Program and to administer the proposed section relating to the rights and obligations of private schools participating in state school choice scholarship programs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled

2 An act relating to scholarship program accountability;

3 amending s. 1002.39, F.S., relating to the John M. McKay

4 Scholarships for Students with Disabilities Program;

5 revising definition of the term "students with

6 disabilities"; revising student eligibility requirements

7 for receipt of a scholarship and restricting eligibility

8 therefor; providing for term of a scholarship; revising

9 and adding school district obligations and clarifying

10 parental options; revising and adding Department of

11 Education obligations, including verification of

12 eligibility of private schools and establishment of a

13 process for notification of violations, subsequent inquiry

14 or investigation, and certification of compliance by

15 private schools; providing Commissioner of Education

16 authority and obligations, including the denial,

17 suspension, or revocation of a private school's

18 participation in the scholarship program and procedures

19 and timelines therefor; revising private school

20 eligibility and obligations, including compliance with

21 specified laws and academic accountability to the parent;

22 revising parent and student responsibilities for

23 scholarship program participation; prohibiting power of

24 attorney for endorsing a scholarship warrant; revising

25 provisions relating to scholarship funding and payment;

26 providing funding and payment requirements for former

27 Florida School for the Deaf and the Blind students and for

28 students exiting a Department of Juvenile Justice program;

29 providing Department of Financial Services obligations;

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30 amending s. 220.187, F.S., relating to credits for
31 contributions to nonprofit scholarship-funding
32 organizations; revising and providing definitions; naming
33 the Corporate Income Tax Credit Scholarship Program;
34 providing student eligibility requirements for receipt of
35 a corporate income tax credit scholarship and restricting
36 eligibility therefor; revising provisions relating to tax
37 credit for small businesses; providing for adjustment of
38 the total amount of tax credits and carryforward of tax
39 credits; providing for rescindment of tax credit
40 allocation; revising and adding obligations of eligible
41 nonprofit scholarship-funding organizations, including
42 compliance with requirements for background checks of
43 owners and operators, scholarship-funding organization
44 ownership or operation, carryforward and transfer of
45 funds, audits, and reports; specifying background
46 screening requirements and procedures; requiring certain
47 information to remain confidential in accordance with s.
48 213.053, F.S.; revising and adding parent and student
49 responsibilities for scholarship program participation,
50 including compliance with a private school's published
51 policies, participation in student academic assessment,
52 and restrictive endorsement of scholarship warrants;
53 prohibiting power of attorney for endorsing a scholarship
54 warrant; revising and adding private school eligibility
55 requirements and obligations, including compliance with
56 specified laws and academic accountability to the parent;
57 revising and adding Department of Education obligations,
58 including verification of eligibility of program

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59 participants, establishment of a process for notification
60 of violations, subsequent inquiry or investigation,
61 certification of compliance by private schools, and
62 selection of a research organization to analyze student
63 performance data; providing Commissioner of Education
64 authority and obligations, including the denial,
65 suspension, or revocation of a private school's
66 participation in the scholarship program and procedures
67 and timelines therefor; revising and adding provisions
68 relating to scholarship funding and payment, including the
69 amount of a scholarship and the payment process; requiring
70 adoption of rules; creating s. 1002.421, F.S., relating to
71 rights and obligations of private schools participating in
72 state school choice scholarship programs; providing
73 requirements for participation in a scholarship program,
74 including compliance with specified state, local, and
75 federal laws and demonstration of fiscal soundness;
76 requiring restrictive endorsement of a scholarship warrant
77 and prohibiting power of attorney for endorsing a warrant;
78 requiring employment of qualified teachers and background
79 screening of employees and contracted personnel with
80 direct student contact; specifying background screening
81 requirements and procedures; providing scope of authority;
82 requiring adoption of rules; providing an effective date.

83
84 Be It Enacted by the Legislature of the State of Florida:

85
86 Section 1. Section 1002.39, Florida Statutes, is amended to
87 read:

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88 1002.39 The John M. McKay Scholarships for Students with
89 Disabilities Program.--There is established a program that is
90 separate and distinct from the Opportunity Scholarship Program
91 and is named the John M. McKay Scholarships for Students with
92 Disabilities Program, ~~pursuant to this section.~~

93 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
94 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
95 Students with Disabilities Program is established to provide the
96 option to attend a public school other than the one to which
97 assigned, or to provide a scholarship to a private school of
98 choice, for students with disabilities for whom an individual
99 education plan has been written in accordance with rules of the
100 State Board of Education. Students with disabilities include K-12
101 students who are documented as having mental retardation; a
102 ~~mentally handicapped,~~ speech or and language impairment; a
103 ~~impaired, deaf or hard of hearing impairment, including deafness;~~
104 a visual impairment, including blindness; a visually impaired,
105 dual sensory impairment; a physical impairment; a serious
106 emotional disturbance, including an emotional handicap; a
107 ~~impaired, physically impaired, emotionally handicapped,~~ specific
108 learning disability, including, but not limited to, dyslexia,
109 dyscalculia, or developmental aphasia; a traumatic brain injury;
110 ~~disabled, hospitalized or homebound, or autism autistic.~~

111 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent of a
112 public school student with a disability who is dissatisfied with
113 the student's progress may request and receive from the state a
114 John M. McKay Scholarship for the child to enroll in and attend a
115 private school in accordance with this section if:

116 (a) ~~By assigned school attendance area or by special~~

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117 ~~assignment,~~ The student has spent the prior school year in
118 attendance at a Florida public school or the Florida School for
119 the Deaf and the Blind. Prior school year in attendance means
120 that the student was:

121 1. Enrolled and reported by a school district for funding
122 during the preceding October and February Florida Education
123 Finance Program surveys in kindergarten through grade 12, which
124 shall include time spent in a Department of Juvenile Justice
125 commitment program if funded under the Florida Education Finance
126 Program;

127 2. Enrolled and reported by the Florida School for the Deaf
128 and the Blind during the preceding October and February student
129 membership surveys in kindergarten through grade 12; or

130 3. Enrolled and reported by a school district for funding
131 during the preceding October and February Florida Education
132 Finance Program surveys, at least 4 years old when so enrolled
133 and reported, and eligible for services under s. 1003.21(1)(e).
134

135 ~~However, this paragraph does not apply to a dependent child of a~~
136 ~~member of the United States Armed Forces who transfers to a~~
137 ~~school in this state from out of state or from a foreign country~~
138 ~~pursuant to a parent's permanent change of station orders is~~
139 ~~exempt from this paragraph but. A dependent child of a member of~~
140 ~~the United States Armed Forces who transfers to a school in this~~
141 ~~state from out of state or from a foreign country pursuant to a~~
142 ~~parent's permanent change of station orders must meet all other~~
143 ~~eligibility requirements to participate in the program.~~

144 (b) The parent has obtained acceptance for admission of the
145 student to a private school that is eligible for the program

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under subsection (8) ~~(4)~~ and has requested from the department
~~notified the school district of the request for a scholarship at~~
least 60 days prior to the date of the first scholarship payment.
The request ~~parental notification~~ must be through a communication
directly to the department ~~district or through the Department of~~
~~Education to the district~~ in a manner that creates a written or
electronic record of the request ~~notification~~ and the date of
receipt of the request ~~notification~~.

~~This section does not apply to a student who is enrolled in a
school operating for the purpose of providing educational
services to youth in Department of Juvenile Justice commitment
programs. For purposes of continuity of educational choice, the
scholarship shall remain in force until the student returns to a
public school or graduates from high school. However, at any
time, the student's parent may remove the student from the
private school and place the student in another private school
that is eligible for the program under subsection (4) or in a
public school as provided in subsection (3).~~

(3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.--A student is
not eligible for a John M. McKay Scholarship while he or she is:

(a) Enrolled in a school operating for the purpose of
providing educational services to youth in Department of Juvenile
Justice commitment programs;

(b) Receiving a corporate income tax credit scholarship
under s. 220.187;

(c) Receiving an educational scholarship pursuant to this
chapter;

(d) Participating in a home education program as defined in

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175 | s. 1002.01(1);
 176 | (e) Participating in a private tutoring program pursuant to
 177 | s. 1002.43;
 178 | (f) Participating in a virtual school, correspondence
 179 | school, or distance learning program that receives state funding
 180 | pursuant to the student's participation unless the participation
 181 | is limited to no more than two courses per school year; or
 182 | (g) Enrolled in the Florida School for the Deaf and the
 183 | Blind.
 184 | (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.--
 185 | (a) For purposes of continuity of educational choice, a
 186 | John M. McKay Scholarship shall remain in force until the student
 187 | returns to a public school, graduates from high school, or
 188 | reaches the age of 22, whichever occurs first.
 189 | (b) Upon reasonable notice to the department and the school
 190 | district, the student's parent may remove the student from the
 191 | private school and place the student in a public school in
 192 | accordance with this section.
 193 | (c) Upon reasonable notice to the department, the student's
 194 | parent may move the student from one participating private school
 195 | to another participating private school.
 196 | (5)(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
 197 | OBLIGATIONS; PARENTAL OPTIONS.--
 198 | (a)1. By April 1 of each year and within 10 days after an
 199 | individual education plan meeting, a school district shall timely
 200 | notify the parent of the student of all options available
 201 | pursuant to this section, inform the parent of the availability
 202 | of the department's telephone hotline and Internet website for
 203 | additional information on John M. McKay Scholarships, and offer

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that student's parent an opportunity to enroll the student in another public school within the district.

2. The parent is not required to accept ~~the~~ this offer of enrolling in another public school in lieu of requesting a John M. McKay Scholarship to a private school. However, if the parent chooses the public school option, the student may continue attending a public school chosen by the parent until the student graduates from high school.

3. If the parent chooses a public school consistent with the district school board's choice plan under s. 1002.31, the school district shall provide transportation to the public school selected by the parent. The parent is responsible to provide transportation to a public school chosen that is not consistent with the district school board's choice plan under s. 1002.31.

(b)1. For a student with disabilities who does not have a matrix of services under s. 1011.62(1)(e), the school district must complete a matrix that assigns the student to one of the levels of service as they existed prior to the 2000-2001 school year.

2.a. Within 10 school days after it receives notification of a parent's request for a John M. McKay Scholarship, a school district must notify the student's parent if the matrix of services has not been completed and inform the parent that the district is required to complete the matrix within 30 days after receiving notice of the parent's request for a John M. McKay Scholarship. This notice should include the required completion date for the matrix.

b. The school district must complete the matrix of services for any student who is participating in the John M. McKay

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Scholarships for Students with Disabilities Program and must notify the department ~~of Education~~ of the student's matrix level within 30 days after receiving notification of a request by the student's parent of intent to participate in the scholarship program. The school district must provide the student's parent with the student's matrix level within 10 school days after its completion.

c. The department ~~of Education~~ shall notify the private school of the amount of the scholarship within 10 days after receiving the school district's notification of the student's matrix level. ~~Within 10 school days after it receives notification of a parent's intent to apply for a McKay Scholarship, a district school board must notify the student's parent if the matrix has not been completed and provide the parent with the date for completion of the matrix required in this paragraph.~~

d. A school district may change a matrix of services only if the change is to correct a technical, typographical, or calculation error.

(c) A school district shall provide notification to parents of the availability of a reevaluation at least every 3 years of each student who receives a John M. McKay Scholarship.

~~(d)(e)~~ If the parent chooses the private school option and the student is accepted by the private school pending the availability of a space for the student, the parent of the student must notify the department ~~school district~~ 60 days prior to the first scholarship payment and before entering the private school in order to be eligible for the scholarship when a space becomes available for the student in the private school.

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262 (e)~~(d)~~ The parent of a student may choose, as an
263 alternative, to enroll the student in and transport the student
264 to a public school in an adjacent school district which has
265 available space and has a program with the services agreed to in
266 the student's individual education plan already in place, and
267 that school district shall accept the student and report the
268 student for purposes of the district's funding pursuant to the
269 Florida Education Finance Program.

270 (f)~~(e)~~ For a student ~~in the district~~ who participates in
271 the John M. McKay Scholarships for Students with Disabilities
272 Program whose parent requests that the student take the statewide
273 assessments under s. 1008.22, the district in which the student
274 attends private school shall provide locations and times to take
275 all statewide assessments.

276 ~~(f) A school district must notify the Department of~~
277 ~~Education within 10 days after it receives notification of a~~
278 ~~parent's intent to apply for a scholarship for a student with a~~
279 ~~disability. A school district must provide the student's parent~~
280 ~~with the student's matrix level within 10 school days after its~~
281 ~~completion.~~

282 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
283 shall:

284 (a) Establish a toll-free hotline that provides parents and
285 private schools with information on participation in the John M.
286 McKay Scholarships for Students with Disabilities Program.

287 (b) Annually verify the eligibility of private schools that
288 meet the requirements of subsection (8).

289 (c) Establish a process by which individuals may notify the
290 department of any violation by a parent, private school, or

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291 school district of state laws relating to program participation.
 292 The department shall conduct an inquiry of any written complaint
 293 of a violation of this section, or make a referral to the
 294 appropriate agency for an investigation, if the complaint is
 295 signed by the complainant and is legally sufficient. A complaint
 296 is legally sufficient if it contains ultimate facts that show
 297 that a violation of this section or any rule adopted by the State
 298 Board of Education has occurred. In order to determine legal
 299 sufficiency, the department may require supporting information or
 300 documentation from the complainant. A department inquiry is not
 301 subject to the requirements of chapter 120.

302 (d) Require an annual, notarized, sworn compliance
 303 statement by participating private schools certifying compliance
 304 with state laws and shall retain such records.

305 (e) Cross-check the list of participating scholarship
 306 students with the public school enrollment lists prior to the
 307 first scholarship payment to avoid duplication.

308 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.--

309 (a) The Commissioner of Education shall deny, suspend, or
 310 revoke a private school's participation in the scholarship
 311 program if it is determined that the private school has failed to
 312 comply with the provisions of this section. However, in instances
 313 in which the noncompliance is correctable within a reasonable
 314 amount of time and in which the health, safety, and welfare of
 315 the students are not threatened, the commissioner may issue a
 316 notice of noncompliance that shall provide the private school
 317 with a timeframe within which to provide evidence of compliance
 318 prior to taking action to suspend or revoke the private school's
 319 participation in the scholarship program.

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320 (b) The commissioner's determination is subject to the
321 following:

322 1. If the commissioner intends to deny, suspend, or revoke
323 a private school's participation in the scholarship program, the
324 department shall notify the private school of such proposed
325 action in writing by certified mail and regular mail to the
326 private school's address of record with the department. The
327 notification shall include the reasons for the proposed action
328 and notice of the timelines and procedures set forth in this
329 paragraph.

330 2. The private school that is adversely affected by the
331 proposed action shall have 15 days from receipt of the notice of
332 proposed action to file with the department's agency clerk a
333 request for a proceeding pursuant to ss. 120.569 and 120.57. If
334 the private school is entitled to a hearing under s. 120.57(1),
335 the department shall forward the request to the Division of
336 Administrative Hearings.

337 3. Upon receipt of a request referred pursuant to this
338 paragraph, the director of the Division of Administrative
339 Hearings shall expedite the hearing and assign an administrative
340 law judge who shall commence a hearing within 30 days after the
341 receipt of the formal written request by the division and enter a
342 recommended order within 30 days after the hearing or within 30
343 days after receipt of the hearing transcript, whichever is later.
344 Each party shall be allowed 10 days in which to submit written
345 exceptions to the recommended order. A final order shall be
346 entered by the agency within 30 days after the entry of a
347 recommended order. The provisions of this subparagraph may be
348 waived upon stipulation by all parties.

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(c) The commissioner may immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is:

1. An imminent threat to the health, safety, and welfare of the students; or

2. Fraudulent activity on the part of the private school.

The commissioner's order suspending payment pursuant to this paragraph may be appealed pursuant to the same procedures and timelines as the notice of proposed action set forth in paragraph (b).

(8)(4) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be eligible to participate in the John M. McKay Scholarships for Students with Disabilities Program, a private school ~~must be a Florida private school,~~ may be sectarian or nonsectarian, and must:

(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to s. 1002.421.

(b) Provide the department all documentation required for a student's participation, including the private school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student.

(c) Be academically accountable to the parent for meeting the educational needs of the student by:

1. At a minimum, annually providing to the parent a written explanation of the student's progress.

2. Cooperating with the scholarship student whose parent chooses to participate in the statewide assessments pursuant to

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s. 1008.22.

The inability of a private school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the private school to participate in the scholarship program as determined by the department.

~~(a) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department.~~

~~(b) Notify the Department of Education of its intent to participate in the program under this section. The notice must specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program.~~

~~(c) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.~~

~~(d) Meet state and local health and safety laws and codes.~~

~~(e) Be academically accountable to the parent for meeting the educational needs of the student.~~

~~(f) Employ or contract with teachers who hold baccalaureate or higher degrees, or have at least 3 years of teaching experience in public or private schools, or have special skills,~~

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~~knowledge, or expertise that qualifies them to provide instruction in subjects taught.~~

~~(g) Comply with all state laws relating to general regulation of private schools.~~

~~(h) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.~~

~~(9)-(5)~~ PARENT AND STUDENT RESPONSIBILITIES FOR OBLIGATION OF PROGRAM PARTICIPATION PARTICIPANTS.--A parent who applies for a John M. McKay Scholarship is exercising his or her parental option to place his or her child in a private school.

~~(a) A parent who applies for a John M. McKay Scholarship is exercising his or her parental option to place his or her child in a private school.~~ The parent must select the private school and apply for the admission of his or her child.

(b) The parent must have requested the scholarship at least 60 days prior to the date of the first scholarship payment.

(c) Any student participating in the John M. McKay Scholarships for Students with Disabilities ~~scholarship~~ Program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, ~~and must comply fully with the school's code of conduct.~~

(d) ~~Each~~ The parent ~~and of each student~~ has an obligation to the private school to participating in the scholarship program ~~must comply fully with the private school's published policies parental involvement requirements, unless excused by the school for illness or other good cause.~~

(e) If the parent requests that the student participating in the John M. McKay Scholarships for Students with Disabilities ~~scholarship~~ Program take all statewide assessments required

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pursuant to s. 1008.22, the parent is responsible for transporting the student to the assessment site designated by the school district.

(f) Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse a scholarship warrant. A participant who fails to comply with this paragraph forfeits the scholarship.

~~(g) A participant who fails to comply with this subsection forfeits the scholarship.~~

~~(10)(6)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

(a)1. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the calculated amount. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraphs ~~subparagraph~~ 3. and 4., the calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of

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services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. Also, the calculated amount shall include the per-student share of supplemental academic instruction funds, instructional materials funds, technology funds, and other categorical funds as provided for such purposes in the General Appropriations Act.

3. The calculated scholarship amount for a student who is eligible under subparagraph (2)(a)2. shall be calculated as provided in subparagraphs 1. and 2. However, the calculation shall be based on the school district in which the parent resides at the time of the scholarship request.

~~4.3-~~ Until the school district completes the matrix required by paragraph (5)~~(3)~~(b), the calculation shall be based on the matrix that assigns the student to support level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment shall be adjusted as needed.

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

~~(c) If the participating private school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the Department of Education prior to the first quarterly payment of the year in which the John M. McKay Scholarship is awarded, up to a maximum of \$1,000, and deducted~~

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~~from subsequent scholarship payments. If a student decides not to attend the participating private school, the partial reservation payment must be returned to the Department of Education by the participating private school. There is a limit of one reservation payment per student per year.~~

(c)1.(d) The school district shall report all students who are attending a private school in the district under this program. The students with disabilities attending private schools on John M. McKay Scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

2. For program participants who are eligible under subparagraph (2)(a)2., the school district that is used as the basis for the calculation of the scholarship amount as provided in subparagraph (a)3. shall:

a. Report to the department all such students who are attending a private school under this program.

b. Be held harmless for such students from the weighted enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.a. during the first school year in which the students are reported.

(d)(e) Following notification on July 1, September 1, December 1, or February 1 of the number of program participants, the department ~~of Education~~ shall transfer, from General Revenue funds only, the amount calculated under paragraph (b) from the school district's total funding entitlement under the Florida Education Finance Program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. Funds may not be transferred from any funding provided to the

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Florida School for the Deaf and the Blind for program
participants who are eligible under subparagraph (2)(a)2. For a
student exiting a Department of Juvenile Justice commitment
program who chooses to participate in the scholarship program,
the amount of the John M. McKay Scholarship calculated pursuant
to paragraph (b) shall be transferred from the school district in
which the student last attended a public school prior to
commitment to the Department of Juvenile Justice. When a student
enters the scholarship program, the ~~department of Education~~ must
receive all documentation required for the student's
participation, including the private school's and student's fee
schedules, at least 30 days before the first quarterly
scholarship payment is made for the student. ~~The Department of~~
~~Education may not make any retroactive payments.~~

~~(e)(f)~~ Upon notification proper documentation reviewed and
~~approved~~ by the department that it has received the documentation
required under paragraph (d) ~~Department of Education~~, the Chief
Financial Officer shall make scholarship payments in four equal
amounts no later than September 1, November 1, February 1, and
April ~~1~~ 15 of each academic year in which the scholarship is in
force. The initial payment shall be made after ~~department of~~
~~Education~~ verification of admission acceptance, and subsequent
payments shall be made upon verification of continued enrollment
and attendance at the private school. Payment must be by
individual warrant made payable to the student's parent and
mailed by the ~~department of Education~~ to the private school of
the parent's choice, and the parent shall restrictively endorse
the warrant to the private school for deposit into the account of
the private school.

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552 (f) Subsequent to each scholarship payment, the Department
 553 of Financial Services shall randomly review endorsed warrants to
 554 confirm compliance with endorsement requirements. The Department
 555 of Financial Services shall immediately report inconsistencies or
 556 irregularities to the department.

557 (11)(7) LIABILITY.--No liability shall arise on the part of
 558 the state based on the award or use of a John M. McKay
 559 Scholarship.

560 (12) SCOPE OF AUTHORITY.--The inclusion of eligible private
 561 schools within options available to Florida public school
 562 students does not expand the regulatory authority of the state,
 563 its officers, or any school district to impose any additional
 564 regulation of private schools beyond those reasonably necessary
 565 to enforce requirements expressly set forth in this section.

566 (13)(8) RULES.--The State Board of Education shall adopt
 567 rules pursuant to ss. 120.536(1) and 120.54 to administer this
 568 section, including rules that school districts must use to
 569 expedite the development of a matrix of services based on an
 570 active ~~a current~~ individual education plan from another state or
 571 a foreign country for a transferring student with a disability
 572 who is a dependent child of a member of the United States Armed
 573 Forces. The rules must identify the appropriate school district
 574 personnel who must complete the matrix of services. For purposes
 575 of these rules, a transferring student with a disability is one
 576 who was previously enrolled as a student with a disability in an
 577 out-of-state or an out-of-country public or private school or
 578 agency program and who is transferring from out of state or from
 579 a foreign country pursuant to a parent's permanent change of
 580 station orders. ~~However, the inclusion of eligible private~~

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~~schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.~~

Section 2. Section 220.187, Florida Statutes, is amended to read:

220.187 Credits for contributions to nonprofit scholarship-funding organizations.--

(1) PURPOSE.--The purpose of this section is to:

(a) Encourage private, voluntary contributions to nonprofit scholarship-funding organizations.

(b) Expand educational opportunities for children of families that have limited financial resources.

(c) Enable children in this state to achieve a greater level of excellence in their education.

(2) DEFINITIONS.--As used in this section, the term:

(a) "Department" means the Department of Revenue.

(b) "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization. The taxpayer making the contribution may not designate a specific child as the beneficiary of the contribution. ~~The taxpayer may not contribute more than \$5 million to any single eligible nonprofit scholarship-funding organization.~~

(c) ~~(d)~~ "Eligible nonprofit scholarship-funding organization" means a charitable organization that:

1. Is exempt from federal income tax pursuant to s.

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501(c)(3) of the Internal Revenue Code.

2. Is a Florida entity formed under chapter 607, chapter 608, or chapter 617 and whose principal office is located in the state.

3. and that Complies with the provisions of subsection (6) ~~(4)~~.

~~(d)(e)~~ "Eligible private nonpublic school" means a private nonpublic school, as defined in s. 1002.01(2), located in Florida that offers an education to students in any grades K-12 and that meets the requirements in subsection (8) (6).

(e) "Owner or operator" includes:

1. An owner, president, officer, or director of an eligible nonprofit scholarship-funding organization or a person with equivalent decisionmaking authority over an eligible nonprofit scholarship-funding organization.

2. An owner, operator, superintendent, or principal of an eligible private school or a person with equivalent decisionmaking authority over an eligible private school.

~~(e) "Qualified student" means a student who qualifies for free or reduced price school lunches under the National School Lunch Act and who:~~

(3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Corporate Income Tax Credit Scholarship Program is established. A student is eligible for a corporate income tax credit scholarship if the student qualifies for free or reduced-price school lunches under the National School Lunch Act and:

(a)1. Was counted as a full-time equivalent student during the previous state fiscal year for purposes of state per-student funding;

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(b)2- Received a scholarship from an eligible nonprofit scholarship-funding organization or from the State of Florida during the previous school year; or

(c)3- Is eligible to enter kindergarten or first grade.

Contingent upon available funds, a student may continue in the scholarship program as long as the student's family income level does not exceed 200 percent of the federal poverty level.

(4) SCHOLARSHIP PROHIBITIONS.--A student is not eligible for a scholarship while he or she is:

(a) Enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;

(b) Receiving a scholarship from another eligible nonprofit scholarship-funding organization under this section;

(c) Receiving an educational scholarship pursuant to chapter 1002;

(d) Participating in a home education program as defined in s. 1002.01(1);

(e) Participating in a private tutoring program pursuant to s. 1002.43;

(f) Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year; or

(g) Enrolled in the Florida School for the Deaf and the Blind.

(5)3- AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

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668 (a) There is allowed a credit of 100 percent of an eligible
669 contribution against any tax due for a taxable year under this
670 chapter. However, such a credit may not exceed 75 percent of the
671 tax due under this chapter for the taxable year, after the
672 application of any other allowable credits by the taxpayer.

673 ~~However, at least 5 percent of the total statewide amount~~
674 ~~authorized for the tax credit shall be reserved for taxpayers who~~
675 ~~meet the definition of a small business provided in s. 288.703(1)~~
676 ~~at the time of application.~~ The credit granted by this section
677 shall be reduced by the difference between the amount of federal
678 corporate income tax taking into account the credit granted by
679 this section and the amount of federal corporate income tax
680 without application of the credit granted by this section.

681 (b) The total amount of tax credits and carryforward of tax
682 credits which may be granted ~~each state fiscal year~~ under this
683 section is \$88 million during the 2006-2007 fiscal year. The
684 total amount of tax credits and carryforward of tax credits which
685 may be granted under this section shall be adjusted each year
686 thereafter, should the prior year's total tax credit and
687 carryforward tax credit limits be obtained, by the same
688 percentage as the increase or decrease in total funding, adjusted
689 for Florida Retirement System changes if applicable, under the
690 Florida Education Finance Program as provided in the General
691 Appropriations Act workpapers. However, the total amount of tax
692 credits that may be granted pursuant to this paragraph may not
693 increase by more than 5 percent in any year. The Commissioner of
694 Education shall certify to the department and notify eligible
695 nonprofit scholarship-funding organizations of the resulting
696 value of tax credits that may be granted within 30 days after the

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697 General Appropriations Act becomes law. However, at least 1
 698 percent of the total statewide amount authorized for the tax
 699 credit shall be reserved for taxpayers who meet the definition of
 700 a small business provided in s. 288.703(1) at the time of
 701 application.

702 (c) A taxpayer who files a Florida consolidated return as a
 703 member of an affiliated group pursuant to s. 220.131(1) may be
 704 allowed the credit on a consolidated return basis; however, the
 705 total credit taken by the affiliated group is subject to the
 706 limitation established under paragraph (a).

707 (d) Effective for tax years beginning January 1, 2006, a
 708 taxpayer may rescind all or part of its allocated tax credit
 709 under this section. The amount rescinded shall become available
 710 for purposes of the cap for that state fiscal year under this
 711 section to an eligible taxpayer as approved by the department if
 712 the taxpayer receives notice from the department that the
 713 rescindment has been accepted by the department and the taxpayer
 714 has not previously rescinded any or all of its tax credit
 715 allocation under this section more than once in the previous 3
 716 tax years. Any amount rescinded under this paragraph shall become
 717 available to an eligible taxpayer on a first-come, first-served
 718 basis based on tax credit applications received after the date
 719 the rescindment is accepted by the department.

720 ~~(6)(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-
 721 FUNDING ORGANIZATIONS.--An eligible nonprofit scholarship-funding
 722 organization:

723 (a) Must comply with the antidiscrimination provisions of
 724 42 U.S.C. s. 2000d.

725 (b) Must comply with the following background check

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726 requirements:

727 1. All owners and operators as defined in subparagraph
728 (2)(e)1. are subject to level 2 background screening as provided
729 under chapter 435. The fingerprints for the background screening
730 must be electronically submitted to the Department of Law
731 Enforcement and can be taken by an authorized law enforcement
732 agency or by an employee of the eligible nonprofit scholarship-
733 funding organization or a private company who is trained to take
734 fingerprints. However, the complete set of fingerprints of an
735 owner or operator may not be taken by the owner or operator. The
736 results of the state and national criminal history check shall be
737 provided to the Department of Education for screening under
738 chapter 435. The cost of the background screening may be borne by
739 the eligible nonprofit scholarship-funding organization or the
740 owner or operator.

741 2. Every 5 years following employment or engagement to
742 provide services or association with an eligible nonprofit
743 scholarship-funding organization, each owner or operator must
744 meet level 2 screening standards as described in s. 435.04, at
745 which time the nonprofit scholarship-funding organization shall
746 request the Department of Law Enforcement to forward the
747 fingerprints to the Federal Bureau of Investigation for level 2
748 screening. If the fingerprints of an owner or operator are not
749 retained by the Department of Law Enforcement under subparagraph
750 3., the owner or operator must electronically file a complete set
751 of fingerprints with the Department of Law Enforcement. Upon
752 submission of fingerprints for this purpose, the eligible
753 nonprofit scholarship-funding organization shall request that the
754 Department of Law Enforcement forward the fingerprints to the

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755 Federal Bureau of Investigation for level 2 screening, and the
756 fingerprints shall be retained by the Department of Law
757 Enforcement under subparagraph 3.

758 3. Beginning July 1, 2007, all fingerprints submitted to
759 the Department of Law Enforcement as required by this paragraph
760 must be retained by the Department of Law Enforcement in a manner
761 approved by rule and entered in the statewide automated
762 fingerprint identification system authorized by s. 943.05(2)(b).
763 The fingerprints must thereafter be available for all purposes
764 and uses authorized for arrest fingerprint cards entered in the
765 statewide automated fingerprint identification system pursuant to
766 s. 943.051.

767 4. Beginning July 1, 2007, the Department of Law
768 Enforcement shall search all arrest fingerprint cards received
769 under s. 943.051 against the fingerprints retained in the
770 statewide automated fingerprint identification system under
771 subparagraph 3. Any arrest record that is identified with an
772 owner's or operator's fingerprints must be reported to the
773 Department of Education. The Department of Education shall
774 participate in this search process by paying an annual fee to the
775 Department of Law Enforcement and by informing the Department of
776 Law Enforcement of any change in the employment, engagement, or
777 association status of the owners or operators whose fingerprints
778 are retained under subparagraph 3. The Department of Law
779 Enforcement shall adopt a rule setting the amount of the annual
780 fee to be imposed upon the Department of Education for performing
781 these services and establishing the procedures for the retention
782 of owner and operator fingerprints and the dissemination of
783 search results. The fee may be borne by the owner or operator of

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the nonprofit scholarship-funding organization.

5. A nonprofit scholarship-funding organization whose owner or operator fails the level 2 background screening shall not be eligible to provide scholarships under this section.

6. A nonprofit scholarship-funding organization whose owner or operator in the last 7 years has filed for personal bankruptcy or corporate bankruptcy in a corporation of which he or she owned more than 20 percent shall not be eligible to provide scholarships under this section.

(c) Must not have an owner or operator who owns or operates an eligible private school that is participating in the scholarship program.

~~(d)(a)~~ Must ~~An eligible nonprofit scholarship-funding organization shall~~ provide scholarships, from eligible contributions, to eligible ~~qualified~~ students for:

1. Tuition or textbook expenses for, or transportation to, an eligible private ~~nonpublic~~ school. At least 75 percent of the scholarship funding must be used to pay tuition expenses; or

2. Transportation expenses to a Florida public school that is located outside the district in which the student resides or to a lab school as defined in s. 1002.32.

~~(e)(b)~~ Must ~~An eligible nonprofit scholarship-funding organization shall~~ give priority to eligible ~~qualified~~ students who received a scholarship from an eligible nonprofit scholarship-funding organization or from the State of Florida during the previous school year.

(f) Must provide a scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority pursuant to paragraph (e).

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813 (g) May not restrict or reserve scholarships for use at a
 814 particular private school or provide scholarships to a child of
 815 an owner or operator.

816 (h) Must allow an eligible student to attend any eligible
 817 private school and must allow a parent to transfer a scholarship
 818 during a school year to any other eligible private school of the
 819 parent's choice.

820 ~~(c) The amount of a scholarship provided to any child for~~
 821 ~~any single school year by all eligible nonprofit scholarship-~~
 822 ~~funding organizations from eligible contributions shall not~~
 823 ~~exceed the following annual limits:~~

824 1. ~~Three thousand five hundred dollars for a scholarship~~
 825 ~~awarded to a student enrolled in an eligible nonpublic school.~~

826 2. ~~Five hundred dollars for a scholarship awarded to a~~
 827 ~~student enrolled in a Florida public school that is located~~
 828 ~~outside the district in which the student resides.~~

829 ~~(d) The amount of an eligible contribution which may be~~
 830 ~~accepted by an eligible nonprofit scholarship funding~~
 831 ~~organization is limited to the amount needed to provide~~
 832 ~~scholarships for qualified students which the organization has~~
 833 ~~identified and for which vacancies in eligible nonpublic schools~~
 834 ~~have been identified.~~

835 (i)(e) Must obligate, in the same fiscal year in which the
 836 contribution was received, An eligible nonprofit scholarship-
 837 funding organization that receives an eligible contribution must
 838 spend 100 percent of the eligible contribution to provide
 839 scholarships; however, up to 25 percent of the total contribution
 840 may be carried forward for scholarships to be granted in the
 841 following same state fiscal year in which the contribution was

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842 ~~received~~. No portion of eligible contributions may be used for
843 administrative expenses. All interest accrued from contributions
844 must be used for scholarships.

845 (j) Must maintain separate accounts for scholarship funds
846 and operating funds.

847 (k) With the prior approval of the Department of Education,
848 may transfer funds to another eligible nonprofit scholarship-
849 funding organization if additional funds are required to meet
850 scholarship demand at the receiving nonprofit scholarship-funding
851 organization. A transfer shall be limited to the greater of
852 \$500,000 or 20 percent of the total contributions received by the
853 nonprofit scholarship-funding organization making the transfer.
854 All transferred funds must be deposited by the receiving
855 nonprofit scholarship-funding organization into its scholarship
856 accounts. All transferred amounts received by any nonprofit
857 scholarship-funding organization must be separately disclosed in
858 the annual financial and compliance audit required in this
859 section.

860 ~~(l)(f) An eligible nonprofit scholarship funding~~
861 ~~organization that receives eligible contributions~~ Must provide to
862 the Auditor General and the Department of Education an annual
863 financial and compliance audit of its accounts and records
864 conducted by an independent certified public accountant and in
865 accordance with rules adopted by the Auditor General. The audit
866 must be conducted in compliance with generally accepted auditing
867 standards and must include a report on financial statements
868 presented in accordance with generally accepted accounting
869 principles set forth by the American Institute of Certified
870 Public Accountants for not-for-profit organizations and a

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determination of compliance with the statutory eligibility and
expenditure requirements set forth in this section. Audits must
be provided to the Auditor General and the Department of
Education within 180 days after completion of the eligible
nonprofit scholarship-funding organization's fiscal year.

(m) Must prepare and submit quarterly reports to the
Department of Education pursuant to paragraph (9) (m). In
addition, an eligible nonprofit scholarship-funding organization
must submit in a timely manner any information requested by the
Department of Education relating to the scholarship program.

Any and all information and documentation provided to the
Department of Education and the Auditor General relating to the
identity of a taxpayer that provides an eligible contribution
under this section shall remain confidential at all times in
accordance with s. 213.053.

~~(g) Payment of the scholarship by the eligible nonprofit~~
~~scholarship-funding organization shall be by individual warrant~~
~~or check made payable to the student's parent. If the parent~~
~~chooses for his or her child to attend an eligible nonpublic~~
~~school, the warrant or check must be mailed by the eligible~~
~~nonprofit scholarship-funding organization to the nonpublic~~
~~school of the parent's choice, and the parent shall restrictively~~
~~endorse the warrant or check to the nonpublic school. An eligible~~
~~nonprofit scholarship-funding organization shall ensure that,~~
~~upon receipt of a scholarship warrant or check, the parent to~~
~~whom the warrant or check is made restrictively endorses the~~
~~warrant or check to the nonpublic school of the parent's choice~~
~~for deposit into the account of the nonpublic school.~~

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900 (7)(5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
901 PARTICIPATION OBLIGATIONS.--

902 (a) The parent must select an eligible private school and
903 apply for the admission of his or her child.

904 (b) The parent must inform the child's school district when
905 the parent withdraws his or her child to attend an eligible
906 private school.

907 (c) Any student participating in the scholarship program
908 must remain in attendance throughout the school year unless
909 excused by the school for illness or other good cause.

910 (d) Each parent and each student has an obligation to the
911 private school to comply with the private school's published
912 policies.

913 (e) The parent shall ensure that the student participating
914 in the scholarship program takes the norm-referenced assessment
915 offered by the private school. The parent may also choose to have
916 the student participate in the statewide assessments pursuant to
917 s. 1008.22. If the parent requests that the student participating
918 in the scholarship program take statewide assessments pursuant to
919 s. 1008.22, the parent is responsible for transporting the
920 student to the assessment site designated by the school district.

921 (f) Upon receipt of a scholarship warrant from the eligible
922 nonprofit scholarship-funding organization, the parent to whom
923 the warrant is made must restrictively endorse the warrant to the
924 private school for deposit into the account of the private
925 school. The parent may not designate any entity or individual
926 associated with the participating private school as the parent's
927 attorney in fact to endorse a scholarship warrant. A participant
928 who fails to comply with this paragraph forfeits the scholarship.

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929 ~~As a condition for scholarship payment pursuant to paragraph~~
 930 ~~(4)(g), if the parent chooses for his or her child to attend an~~
 931 ~~eligible nonpublic school, the parent must inform the child's~~
 932 ~~school district within 15 days after such decision.~~

933 (8)(6) PRIVATE ELIGIBLE NONPUBLIC SCHOOL ELIGIBILITY AND
 934 OBLIGATIONS.--An eligible private nonpublic school may be
 935 sectarian or nonsectarian and must:

936 (a) Comply with all requirements for private schools
 937 participating in state school choice scholarship programs
 938 pursuant to s. 1002.421.

939 (b) Provide to the eligible nonprofit scholarship-funding
 940 organization, upon request, all documentation required for the
 941 student's participation, including the private school's and
 942 student's fee schedules.

943 (c) Be academically accountable to the parent for meeting
 944 the educational needs of the student by:

945 1. At a minimum, annually providing to the parent a written
 946 explanation of the student's progress.

947 2. Annually administering or making provision for students
 948 participating in the scholarship program to take one of the
 949 nationally norm-referenced tests identified by the Department of
 950 Education. Students with disabilities for whom standardized
 951 testing is not appropriate are exempt from this requirement. A
 952 participating private school must report a student's scores to
 953 the parent and to the independent research organization selected
 954 by the Department of Education as described in paragraph (9)(j).

955 3. Cooperating with the scholarship student whose parent
 956 chooses to participate in the statewide assessments pursuant to
 957 s. 1008.32.

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The inability of a private school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the private school to participate in the scholarship program as determined by the Department of Education.

~~(a) Demonstrate fiscal soundness by being in operation for one school year or provide the Department of Education with a statement by a certified public accountant confirming that the nonpublic school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department.~~

~~(b) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.~~

~~(c) Meet state and local health and safety laws and codes.~~

~~(d) Comply with all state laws relating to general regulation of nonpublic schools.~~

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department of Education shall:

(a) Annually submit to the department, by March 15, a list of eligible nonprofit scholarship-funding organizations that meet the requirements of paragraph (2)(c).

(b) Annually verify the eligibility of nonprofit scholarship-funding organizations that meet the requirements of paragraph (2)(c).

(c) Annually verify the eligibility of private schools that

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987 meet the requirements of subsection (8).

988 (d) Annually verify the eligibility of expenditures as
 989 provided in paragraph (6)(d) using the audit required by
 990 paragraph (6)(l).

991 (e) Establish a toll-free hotline that provides parents and
 992 private schools with information on participation in the
 993 scholarship program.

994 (f) Establish a process by which individuals may notify the
 995 Department of Education of any violation by a parent, private
 996 school, or school district of state laws relating to program
 997 participation. The Department of Education shall conduct an
 998 inquiry of any written complaint of a violation of this section,
 999 or make a referral to the appropriate agency for an
 1000 investigation, if the complaint is signed by the complainant and
 1001 is legally sufficient. A complaint is legally sufficient if it
 1002 contains ultimate facts that show that a violation of this
 1003 section or any rule adopted by the State Board of Education has
 1004 occurred. In order to determine legal sufficiency, the Department
 1005 of Education may require supporting information or documentation
 1006 from the complainant. A department inquiry is not subject to the
 1007 requirements of chapter 120.

1008 (g) Require an annual, notarized, sworn compliance
 1009 statement by participating private schools certifying compliance
 1010 with state laws and shall retain such records.

1011 (h) Cross-check the list of participating scholarship
 1012 students with the public school enrollment lists to avoid
 1013 duplication.

1014 (i) In accordance with State Board of Education rule,
 1015 identify and select the nationally norm-referenced tests that are

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comparable to the norm-referenced provisions of the Florida Comprehensive Assessment Test (FCAT) provided that the FCAT may be one of the tests selected. However, the Department of Education may approve the use of an additional assessment by the school if the assessment meets industry standards of quality and comparability.

(j) Select an independent research organization, which may be a public or private entity or university, to which participating private schools must report the scores of participating students on the nationally norm-referenced tests administered by the private school. The independent research organization must annually report to the Department of Education on the year-to-year improvements of participating students. The independent research organization must analyze and report student performance data in a manner that protects the rights of students and parents as mandated in 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act, and must not disaggregate data to a level that will disclose the academic level of individual students or of individual schools. To the extent possible, the independent research organization must accumulate historical performance data on students from the Department of Education and private schools to describe baseline performance and to conduct longitudinal studies. To minimize costs and reduce time required for third-party analysis and evaluation, the Department of Education shall conduct analyses of matched students from public school assessment data and calculate control group learning gains using an agreed-upon methodology outlined in the contract with the third-party evaluator. The sharing of student data must be in accordance with requirements of 20 U.S.C.

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s. 1232g, the Family Educational Rights and Privacy Act, and shall be for the sole purpose of conducting the evaluation. All parties must preserve the confidentiality of such information as required by law.

(k) Notify an eligible nonprofit scholarship-funding organization of any of the organization's identified students who are receiving educational scholarships pursuant to chapter 1002.

(l) Notify an eligible nonprofit scholarship-funding organization of any of the organization's identified students who are receiving corporate income tax credit scholarships from other eligible nonprofit scholarship-funding organizations.

(m) Require quarterly reports by an eligible nonprofit scholarship-funding organization regarding the number of students participating in the scholarship program, the private schools at which the students are enrolled, and other information deemed necessary by the Department of Education.

(10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.--

(a) The Commissioner of Education shall deny, suspend, or revoke a private school's participation in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, in instances in which the noncompliance is correctable within a reasonable amount of time and in which the health, safety, and welfare of the students are not threatened, the commissioner may issue a notice of noncompliance that shall provide the private school with a timeframe within which to provide evidence of compliance prior to taking action to suspend or revoke the private school's participation in the scholarship program.

(b) The commissioner's determination is subject to the

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following:

1. If the commissioner intends to deny, suspend, or revoke a private school's participation in the scholarship program, the Department of Education shall notify the private school of such proposed action in writing by certified mail and regular mail to the private school's address of record with the Department of Education. The notification shall include the reasons for the proposed action and notice of the timelines and procedures set forth in this paragraph.

2. The private school that is adversely affected by the proposed action shall have 15 days from receipt of the notice of proposed action to file with the Department of Education's agency clerk a request for a proceeding pursuant to ss. 120.569 and 120.57. If the private school is entitled to a hearing under s. 120.57(1), the Department of Education shall forward the request to the Division of Administrative Hearings.

3. Upon receipt of a request referred pursuant to this paragraph, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written request by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days after the entry of a recommended order. The provisions of this subparagraph may be waived upon stipulation by all parties.

(c) The commissioner may immediately suspend payment of

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scholarship funds if it is determined that there is probable
cause to believe that there is:

1. An imminent threat to the health, safety, and welfare of
the students; or

2. Fraudulent activity on the part of the private school.

The commissioner's order suspending payment pursuant to this
paragraph may be appealed pursuant to the same procedures and
timelines as the notice of proposed action set forth in paragraph
(b).

(11) SCHOLARSHIP AMOUNT AND PAYMENT.--

(a) The amount of a scholarship provided to any student for
any single school year by an eligible nonprofit scholarship-
funding organization from eligible contributions shall not exceed
the following annual limits:

1. Three thousand seven hundred fifty dollars for a
scholarship awarded to a student enrolled in an eligible private
school.

2. Five hundred dollars for a scholarship awarded to a
student enrolled in a Florida public school that is located
outside the district in which the student resides or in a lab
school as defined in s. 1002.32.

(b) Payment of the scholarship by the eligible nonprofit
scholarship-funding organization shall be by individual warrant
made payable to the student's parent. If the parent chooses for
his or her child to attend an eligible private school, the
warrant must be delivered by the eligible nonprofit scholarship-
funding organization to the private school of the parent's
choice, and the parent shall restrictively endorse the warrant to

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the private school. An eligible nonprofit scholarship-funding organization shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school for deposit into the account of the private school.

(c) An eligible nonprofit scholarship-funding organization shall obtain verification from the private school of a student's continued attendance at the school prior to each scholarship payment.

(d) Payment of the scholarship shall be made by the eligible nonprofit scholarship-funding organization no less frequently than on a quarterly basis.

~~(12)~~(7) ADMINISTRATION; RULES.--

(a) If the credit granted pursuant to this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for a period not to exceed 3 years; however, any taxpayer that seeks to carry forward an unused amount of tax credit must submit an application for allocation of tax credits or carryforward credits as required in paragraph (d) in the year that the taxpayer intends to use the carryforward ~~carry forward~~. ~~The total amount of tax credits and carryforward of tax credits granted each state fiscal year under this section is \$88 million.~~ This carryforward applies to all approved contributions made after January 1, 2002. A taxpayer may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction.

(b) An application for a tax credit pursuant to this section shall be submitted to the department on forms established

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by rule of the department.

(c) The department and the Department of Education shall develop a cooperative agreement to assist in the administration of this section. ~~The Department of Education shall be responsible for annually submitting, by March 15, to the department a list of eligible nonprofit scholarship funding organizations that meet the requirements of paragraph (2)(d) and for monitoring eligibility of nonprofit scholarship funding organizations that meet the requirements of paragraph (2)(d), eligibility of nonpublic schools that meet the requirements of paragraph (2)(e), and eligibility of expenditures under this section as provided in subsection (4).~~

(d) The department shall adopt rules necessary to administer this section, including rules establishing application forms and procedures and governing the allocation of tax credits and carryforward credits under this section on a first-come, first-served basis.

(e) The State Board ~~Department~~ of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this section as it relates to the roles of the Department of Education and the Commissioner of Education ~~determine eligibility of nonprofit scholarship funding organizations as defined in paragraph (2)(d) and according to the provisions of subsection (4) and identify qualified students as defined in paragraph (2)(e).~~

(13)(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible contributions received by an eligible nonprofit scholarship-funding organization shall be deposited in a manner consistent with s. 17.57(2).

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Section 3. Section 1002.421, Florida Statutes, is created to read:

1002.421 Rights and obligations of private schools participating in state school choice scholarship programs.--

(1) A Florida private school participating in the Corporate Income Tax Credit Scholarship Program established pursuant to s. 220.187 or an educational scholarship program established pursuant to this chapter must comply with all requirements of this section in addition to private school requirements outlined in s. 1002.42, specific requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools.

(2) A private school participating in a scholarship program must be a Florida private school as defined in s. 1002.01(2), must be registered in accordance with s. 1002.42, and must:

(a) Comply with antidiscrimination provisions of 42 U.S.C. s. 2000d.

(b) Notify the department of its intent to participate in a scholarship program.

(c) Notify the department of any change in the school's name, school director, mailing address, or physical location within 15 days after the change.

(d) Complete student enrollment and attendance verification requirements, including use of an on-line attendance verification form, prior to scholarship payment.

(e) Annually complete and submit to the department a notarized scholarship compliance statement certifying that all school employees and contracted personnel with direct student contact have undergone background screening pursuant to s.

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1219 943.0542.1220 (f) Demonstrate fiscal soundness and accountability by:

1221 1. Being in operation for at least 3 school years or
1222 obtaining a surety bond or letter of credit for the amount equal
1223 to the scholarship funds for any quarter and filing the surety
1224 bond or letter of credit with the department.

1225 2. Requiring the parent of each scholarship student to
1226 personally restrictively endorse the scholarship warrant to the
1227 school. The school may not act as attorney in fact for the parent
1228 of a scholarship student under the authority of a power of
1229 attorney executed by such parent, or under any other authority,
1230 to endorse scholarship warrants on behalf of such parent.

1231 (g) Meet applicable state and local health, safety, and
1232 welfare laws, codes, and rules, including:

1233 1. Fire safety.1234 2. Building safety.

1235 (h) Employ or contract with teachers who hold baccalaureate
1236 or higher degrees, have at least 3 years of teaching experience
1237 in public or private schools, or have special skills, knowledge,
1238 or expertise that qualifies them to provide instruction in
1239 subjects taught.

1240 (i) Require each employee and contracted personnel with
1241 direct student contact to undergo a state and national background
1242 screening, pursuant to s. 943.0542, by electronically filing with
1243 the Department of Law Enforcement a complete set of fingerprints
1244 taken by an authorized law enforcement agency or an employee of
1245 the private school, a school district, or a private company who
1246 is trained to take fingerprints and to be denied employment or
1247 terminated if he or she fails to meet the screening standards

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under s. 435.04. Results of the screening shall be provided to the participating private school. For purposes of this paragraph:

1. An "employee or contracted personnel with direct student contact" means any employee or contracted personnel who has unsupervised access to a scholarship student for whom the private school is responsible.

2. The costs of fingerprinting and the background check shall not be borne by the state.

3. Continued employment of an employee or contracted personnel after notification that he or she has failed the background screening under this paragraph shall cause a private school to be ineligible for participation in a scholarship program.

4. An employee or contracted personnel holding a valid Florida teaching certificate who has been fingerprinted pursuant to s. 1012.32 shall not be required to comply with the provisions of this paragraph.

(3)(a) Beginning July 1, 2007, all fingerprints submitted to the Department of Law Enforcement as required by this section shall be retained by the Department of Law Enforcement in a manner provided by rule and entered in the statewide automated fingerprint identification system authorized by s. 943.05(2)(b). Such fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprint cards entered in the statewide automated fingerprint identification system pursuant to s. 943.051.

(b) Beginning July 1, 2007, the Department of Law Enforcement shall search all arrest fingerprint cards received under s. 943.051 against the fingerprints retained in the

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statewide automated fingerprint identification system under paragraph (a). Any arrest record that is identified with the retained fingerprints of a person subject to the background screening under this section shall be reported to the employing school with which the person is affiliated. Each private school participating in a scholarship program is required to participate in this search process by informing the Department of Law Enforcement of any change in the employment or contractual status of its personnel whose fingerprints are retained under paragraph (a). The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon each private school for performing these searches and establishing the procedures for the retention of private school employee and contracted personnel fingerprints and the dissemination of search results. The fee may be borne by the private school or the person fingerprinted.

(c) Employees and contracted personnel whose fingerprints are not retained by the Department of Law Enforcement under paragraphs (a) and (b) are required to be refingerprinted and must meet state and national background screening requirements upon reemployment or reengagement to provide services in order to comply with the requirements of this section.

(d) Every 5 years following employment or engagement to provide services with a private school, employees or contracted personnel required to be screened under this section must meet screening standards under s. 435.04, at which time the private school shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for national processing. If the fingerprints of employees or

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1306 contracted personnel are not retained by the Department of Law
1307 Enforcement under paragraph (a), employees and contracted
1308 personnel must electronically file a complete set of fingerprints
1309 with the Department of Law Enforcement. Upon submission of
1310 fingerprints for this purpose, the private school shall request
1311 that the Department of Law Enforcement forward the fingerprints
1312 to the Federal Bureau of Investigation for national processing,
1313 and the fingerprints shall be retained by the Department of Law
1314 Enforcement under paragraph (a).

1315 (4) The inability of a private school to meet the
1316 requirements of this section shall constitute a basis for the
1317 ineligibility of the private school to participate in a
1318 scholarship program as determined by the department.

1319 (5) The inclusion of eligible private schools within
1320 options available to Florida public school students does not
1321 expand the regulatory authority of the state, its officers, or
1322 any school district to impose any additional regulation of
1323 private schools beyond those reasonably necessary to enforce
1324 requirements expressly set forth in this section.

1325 (6) The State Board of Education shall adopt rules pursuant
1326 to ss. 120.536(1) and 120.54 to administer this section.

1327 Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 75
SPONSOR(S): Bilirakis
TIED BILLS:

John M. McKay Scholarships for Students with Disabilities Program

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee		Hunker	Kooi
2) Education Appropriations Committee			
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

HB 75 redefines the term “students with disabilities” using modern terminology and eliminating hospitalized and homebound as a freestanding category of students with disabilities.

The bill revises eligibility for John M. McKay scholarships by allowing students who spent the prior year in the Florida School for the Deaf and the Blind or a Department of Juvenile Justice commitment program to apply for and receive McKay scholarships. The bill also removes the requirement that students have spent the prior school year in an *assigned* Florida public school. With the changes, prior year attendance at any Florida public school will qualify.

The bill eliminates Department of Education (DOE) funding of pre-paid private school tuition for McKay Scholarship recipients.

The bill requires school districts to report to DOE all students who attended the Florida School for the Deaf and the Blind for the prior year, and are now attending a private school under the John M. McKay Scholarship Program.

The bill has an indeterminate fiscal impact. See the FISCAL ANALYSIS section for more information.

The act shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the entitlement to John M. McKay Scholarships by including students, as defined by Federal law, in the categories of students who are eligible to receive the scholarship.

Empower families – This bill increases public and private school choice for eligible disabled children who spent the prior year in the Florida School for the Deaf and the Blind or a Department of Juvenile Justice commitment program.

Safeguard individual liberty – Students with disabilities leaving the Florida School for the Deaf and the Blind and Department of Juvenile Justice commitment programs will have access to public and private school choice options more quickly.

B. EFFECT OF PROPOSED CHANGES:

In 2002, the Florida Legislature authorized by law the statewide implementation of the John M. McKay Scholarships for Students with Disabilities Program. The program currently provides scholarships to attend either a qualifying private school or another public school to students with disabilities whose parents believe that their child's needs are not being met at their assigned public schools.

Students With Disabilities

Currently, "students with disabilities" includes K-12 students who are: (1) mentally handicapped; (2) Speech and language impaired; (3) Deaf or hard of hearing; (4) Visually impaired; (5) Dual sensory impaired; (6) Physically impaired; (7) Emotionally handicapped; (8) Specific learning disabled; (9) Hospitalized or homebound; or (10) Autistic.

The proposed definition of "students with disabilities" includes K-12 students with the following disabilities: (1) Documented mental retardation; (2) Speech or language impairment; (3) Hearing impairment, including deafness; (4) Visual impairment, including blindness; (5) Dual sensory impairment; (6) Physical impairment; (7) Serious emotional disturbance, including emotional handicap; or (9) Specific learning disability, including, but not limited to: Dyslexia; Dyscalculia; Developmental aphasia; Traumatic brain injury; or Autism.

This bill changes the definition of "students with disabilities" so that § 1002.39 uses the modern terminology for disabilities as they are used in the federal regulations (See 34 C.F.R. § 300.7(c)). This bill eliminates "hospitalized and homebound" as a free-standing category of students with disabilities, but these students may qualify for the McKay Scholarships under any of the other enumerated categories. Note that there may be some students who meet the definition of students with disabilities, but are nevertheless ineligible for a McKay scholarship because the student does not meet the requirements for an individual education plan (IEP).

Scholarship Eligibility

Currently, a parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive a McKay Scholarship for the child to enroll in and attend a private school if the child attended an assigned Florida public school for the prior year.

Section 1002.39(2)(a) currently defines "prior school year in attendance" to mean that the student was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12.

This bill clarifies current law which provides that students enrolled in Department of Juvenile Justice (DJJ) commitment programs are ineligible to receive a McKay scholarship during the period of enrollment in the commitment program. On the other hand, current law is unclear as to whether a student that has met the McKay scholarship eligibility requirements is eligible to participate in the program immediately upon dismissal from a DJJ commitment program. According to the Department of Education (DOE), implementation of current law has been that "the time in which a student was enrolled in a DJJ commitment program would not 'count' as the required prior year of enrollment in public schools; therefore students dismissed from a DJJ commitment program are only eligible for a McKay scholarship after being in attendance and reported for funding in a regular public school for both the October and February surveys."¹ Therefore, under current practice, the DOE does not consider a school in a DJJ commitment program to be a Florida public school for purposes of eligibility for the McKay Scholarship.

Under this bill, "prior school year attendance" at any Florida public school will qualify; assignment is not a requirement. Also, this bill clarifies that "prior school year in attendance" includes time spent in a Department of Juvenile Justice (DJJ) commitment program if funded under the Florida Education Finance Program (FEFP). Prior school year attendance at the Florida School for the Deaf and Blind will also qualify.

Scholarship Funding and Payment

The bill clarifies that students enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs "shall not receive a John M. McKay Scholarship during the period of time that he or she is enrolled in such school."

This bill further provides that the scholarship amount for a student who has spent the prior year in attendance at the Florida School for the Deaf and the Blind will be calculated in the same manner as any other McKay Scholarship, except that the calculation is based on the school district in which the parent resides at the time of the scholarship request.

Some private schools require pre-paid amounts of tuition to reserve seats in the class. This bill eliminates Department of Education (DOE) funding of pre-paid tuition for McKay Scholarship recipients. The scholarship recipients will still receive the full tuition payments, but only on the dates specified in paragraph (6)(e): "no later than September 1, November 1, February 1, and April 15 of each academic year in which the scholarship is in force."

The bill provides that the funds used to provide scholarships to newly eligible students from the FSDB will come from the school districts where the parent resides at the time of the scholarship request. The bill prohibits the transfer of funds from the FSDB for students to participate in the program.

The bill provides that the funds used to provide scholarships to newly eligible students from a DJJ commitment program will come from the school district in which the student last attended a public school prior to commitment.

Reporting Requirements

The bill requires the school districts to report to DOE the number of former FSDB students attending private schools under this program, and holds the school district harmless for such students from the weighted enrollment ceiling for group 2 programs during the first school year in which the student reported. Group 2 includes students in exceptional student education programs, English for Speakers of Other Languages programs, and all career programs in grades 7-12.

¹ Florida Department of Education, Governmental Relations Office, 2004 Legislative Bill Analysis on HB 1579: John M. McKay Scholarships for Students with Disabilities Program.

C. SECTION DIRECTORY:

- Section 1. Amends Fla. Stat. § 1002.39; revising the definition of the term students with disabilities, clarifying and revising the student eligibility requirements; revising the provisions relating to scholarship funding and payment, and provides funding and payment mechanisms.
- Section 2. Provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision (Article VII, section 18):

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds.

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 75 does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled

2 An act relating to the John M. McKay Scholarships for
3 Students with Disabilities Program; amending s. 1002.39,
4 F.S.; revising definition of the term "students with
5 disabilities"; revising student eligibility requirements
6 for receipt of a scholarship; revising provisions relating
7 to scholarship funding and payment; providing funding and
8 payment requirements for former Florida School for the
9 Deaf and the Blind students and for students exiting a
10 Department of Juvenile Justice program; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsections (1), (2), and (6) of section
16 1002.39, Florida Statutes, are amended to read:

17 1002.39 The John M. McKay Scholarships for Students with
18 Disabilities Program.--There is established a program that is
19 separate and distinct from the Opportunity Scholarship Program
20 and is named the John M. McKay Scholarships for Students with
21 Disabilities Program, pursuant to this section.

22 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
23 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
24 Students with Disabilities Program is established to provide the
25 option to attend a public school other than the one to which
26 assigned, or to provide a scholarship to a private school of
27 choice, for students with disabilities for whom an individual
28 education plan has been written in accordance with rules of the

29 State Board of Education. Students with disabilities include K-
30 12 students who are documented as having mental retardation; a
31 ~~mentally handicapped,~~ speech or and language impairment; a
32 ~~impaired, deaf or hard of hearing impairment, including~~
33 deafness; a visual impairment, including blindness; a visually
34 ~~impaired,~~ dual sensory impairment; a physical impairment; a
35 serious emotional disturbance, including an emotional handicap;
36 ~~a impaired, physically impaired, emotionally handicapped,~~
37 specific learning disability, including, but not limited to,
38 dyslexia, dyscalculia, or developmental aphasia; a traumatic
39 brain injury; disabled, hospitalized or homebound, or autism
40 autistic.

41 (2) SCHOLARSHIP ELIGIBILITY.--The parent of a public
42 school student with a disability who is dissatisfied with the
43 student's progress may request and receive from the state a John
44 M. McKay Scholarship for the child to enroll in and attend a
45 private school in accordance with this section if:

46 (a) ~~By assigned school attendance area or by special~~
47 ~~assignment,~~ The student has spent the prior school year in
48 attendance at a Florida public school or the Florida School for
49 the Deaf and the Blind. Prior school year in attendance means
50 that the student was:

51 1. Enrolled and reported by a school district for funding
52 during the preceding October and February Florida Education
53 Finance Program surveys in kindergarten through grade 12, which
54 shall include time spent in a Department of Juvenile Justice
55 commitment program if funded under the Florida Education Finance
56 Program; or

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57 2. Enrolled and reported by the Florida School for the
 58 Deaf and the Blind during the preceding October and February
 59 student membership surveys in kindergarten through grade 12.

60
 61 ~~However, this paragraph does not apply to a dependent child of a~~
 62 ~~member of the United States Armed Forces who transfers to a~~
 63 ~~school in this state from out of state or from a foreign country~~
 64 ~~pursuant to a parent's permanent change of station orders is~~
 65 ~~exempt from this paragraph but. A dependent child of a member of~~
 66 ~~the United States Armed Forces who transfers to a school in this~~
 67 ~~state from out of state or from a foreign country pursuant to a~~
 68 ~~parent's permanent change of station orders must meet all other~~
 69 ~~eligibility requirements to participate in the program.~~

70 (b) The parent has obtained acceptance for admission of
 71 the student to a private school that is eligible for the program
 72 under subsection (4) and has notified the school district of the
 73 request for a scholarship at least 60 days prior to the date of
 74 the first scholarship payment. The parental notification must be
 75 through a communication directly to the district or through the
 76 Department of Education to the district in a manner that creates
 77 a written or electronic record of the notification and the date
 78 of receipt of the notification.

79
 80 ~~This section does not apply to~~ A student who is enrolled in a
 81 school operating for the purpose of providing educational
 82 services to youth in Department of Juvenile Justice commitment
 83 programs shall not receive a John M. McKay Scholarship during
 84 the period of time that he or she is enrolled in such school.

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For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school or graduates from high school. However, at any time, the student's parent may remove the student from the private school and place the student in another private school that is eligible for the program under subsection (4) or in a public school as provided in subsection (3).

(6) SCHOLARSHIP FUNDING AND PAYMENT.--

(a)1. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the calculated amount. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraphs ~~subparagraph~~ 3. and 4., the calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. Also, the calculated amount shall include the per-student share of supplemental academic instruction funds,

instructional materials funds, technology funds, and other categorical funds as provided for such purposes in the General Appropriations Act.

3. The calculated scholarship amount for a student who has spent the prior school year in attendance at the Florida School for the Deaf and the Blind shall be calculated as provided in subparagraphs 1. and 2. However, the calculation shall be based on the school district in which the parent resides at the time of the scholarship request.

4.3- Until the school district completes the matrix required by paragraph (3) (b), the calculation shall be based on the matrix that assigns the student to support level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment shall be adjusted as needed.

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

~~(c) If the participating private school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the Department of Education prior to the first quarterly payment of the year in which the John M. McKay Scholarship is awarded, up to a maximum of \$1,000, and deducted from subsequent scholarship payments. If a student decides not to attend the participating private school, the partial~~

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~~reservation payment must be returned to the Department of Education by the participating private school. There is a limit of one reservation payment per student per year.~~

(c)(d)1. The school district shall report all students who are attending a private school under this program. The students with disabilities attending private schools on John M. McKay Scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

2. For program participants who are eligible under subparagraph (2)(a)2., the school district that is used as the basis for the calculation of the scholarship amount as provided in subparagraph (a)3. shall:

a. Report to the department all such students who are attending a private school under this program.

b. Be held harmless for such students from the weighted enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.a. during the first school year in which the students are reported.

(d)(e) Following notification on July 1, September 1, December 1, or February 1 of the number of program participants, the department of Education shall transfer, from General Revenue funds only, the amount calculated under paragraph (b) from the school district's total funding entitlement under the Florida Education Finance Program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. Funds may not be transferred from any funding provided to the Florida School for the Deaf and the Blind for program participants who are eligible under subparagraph (2)(a)2. For a

student exiting a Department of Juvenile Justice commitment
program who chooses to participate in the scholarship program,
the amount of the John M. McKay Scholarship calculated pursuant
to paragraph (b) shall be transferred from the school district
in which the student last attended a public school prior to
commitment to the Department of Juvenile Justice. When a student
enters the scholarship program, the department ~~of Education~~ must
receive all documentation required for the student's
participation, including the private school's and student's fee
schedules, at least 30 days before the first quarterly
scholarship payment is made for the student. The Department of
Education may not make any retroactive payments.

(e)~~(f)~~ Upon proper documentation reviewed and approved by
the Department of Education, the Chief Financial Officer shall
make scholarship payments in four equal amounts no later than
September 1, November 1, February 1, and April 15 of each
academic year in which the scholarship is in force. The initial
payment shall be made after Department of Education verification
of admission acceptance, and subsequent payments shall be made
upon verification of continued enrollment and attendance at the
private school. Payment must be by individual warrant made
payable to the student's parent and mailed by the Department of
Education to the private school of the parent's choice, and the
parent shall restrictively endorse the warrant to the private
school for deposit into the account of the private school.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 665 Florida Virtual School
SPONSOR(S): Troutman
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee		Hunker	Kooi
2) Education Appropriations Committee			
3) Education Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill amends s. 1002.37, F.S., to establish the Students Earning Additional Recovery Credits and Honors (SEARCH) Program within the Florida Virtual School (FLVS). Students can recover credits needed for graduation or earn honors course credit or other course credit through the SEARCH Program.

The bill states that funding for the SEARCH Program will be for full-time equivalent student credit to the extent provided by the General Appropriations Act (GAA) at a maximum of two credits per student. See the FISCAL COMMENTS Section of the analysis.

This bill provides that school district franchises of the Florida Virtual School that operated during the fiscal years 2004-2005 and 2005-2006 are eligible to participate and that a school district franchise's portion of the SEARCH Program funds may not exceed the district's proportion of the total unweighted full-time equivalent students enrolled in grades 9 through 12 in the participating school districts.

The bill provides that it shall take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families – The bill provides parents of public school students with an educational choice opportunity by providing funding for up to an additional 2 credits that may be used through the Florida Virtual School to recover credits needed for graduation, or to receive honors course credit, or other course credit.

Safeguard Individual Liberty – This bill maintains parental choice by providing parents of public school students with an additional education opportunity.

B. EFFECT OF PROPOSED CHANGES:

The Florida Legislature initially funded a grant-based pilot project in 1997, creating Florida's first Internet-based, public high school. In 2000, s. 228.082, F.S.¹ established the Florida Virtual School (FLVS) as an independent educational entity housed within the Commissioner of Education's Office of Technology and Information Services. The Legislature created the FLVS Board of Trustees, which was authorized to create rules and procedures for the FLVS, enter into agreements with distance learning providers, and acquire, enjoy, use, and dispose of patents, trademarks, copyrights, licenses, rights and interests.

In 2003, the legislature authorized the FLVS Board of Trustees to franchise with district school boards. The FLVS Board of Trustees is authorized to establish the criteria for defining the elements of an approved franchise, the terms and conditions governing franchise agreements, and the performance and accountability measures for a school district franchise. The board of trustees is required to report the performance of each school district to the Commissioner of Education.² The district franchises are currently authorized to count a maximum full-time equivalent (FTE) of 25 hours per week under the Florida Education Finance Program (FEFP).³

Currently, school district franchises do not receive additional funding for students to take classes through the FLVS in addition to all of the other classes they take at their regular public school. In order to take a course through the FLVS, students at district franchise schools are required to reduce their class loads at their regular public schools in order to meet the 25 hour per week FTE cap. This bill provides funding for students to take up to an additional 2 credits through the FLVS without reducing their normal class load at their regular public school.

The bill states that school districts which operated a franchise for the 2004-2005 and 2005-2006 school districts will be eligible to participate in the SEARCH Program in 2006-2007 and thereafter. This provision limits the program to the seven school district franchises currently in existence.⁴ This limitation would test the fiscal impact of the SEARCH Program as a pilot before future school district franchises are permitted to participate. It would also prevent school districts from entering into FLVS franchise agreements solely for the purpose of taking advantage of the SEARCH Program.

The bill states that only the following types of credits may be earned through the SEARCH Program:

¹ Recodified at s. 1002.37, F.S.

² Section 1002.37(2)(i), F.S.

³ The 25 hours per week maximum articulated in this bill is the same as the 1.00 FTE maximum for grades 4-12, and consists of 900 hours of instruction per 180 day school year.

⁴ The seven current school district franchises are: Brevard, Broward, Dade, Hillsborough, Okaloosa, Pasco, and Polk.

- Replacement credits needed for graduation;⁵
- Honors credits;
- Other course credit that would not otherwise be available to the student at their regular public school;⁶
- Credits for classes taken to help students scoring in the lower levels on the FCAT;
- Credits for classes taken by homebound students; and
- Credits for classes taken by students currently assigned to a Department of Juvenile Justice facility.

This bill limits the number of credits that an individual student may earn in the SEARCH Program to two. It also states that a school district's portion of the program funds may not exceed the district's portion of the total unweighted full-time equivalent (FTE) students enrolled in grades 9 through 12 in the participating school districts. This would help ensure that each of the districts could participate in proportion to their size.

C. SECTION DIRECTORY:

Section 1: Amends s. 1002.37, F.S., relating to the Florida Virtual School (FLVS); creates the Students Earning Additional Recovery Credits and Honors (SEARCH) Program within the Florida Virtual School; provides for funding for the SEARCH Program; provides eligibility requirements for school district franchises; lists the types of credits which may be earned through the SEARCH program; limits funding to two credits per student; limits the total funding a school district franchise may receive through the SEARCH Program.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

⁵ A "replacement credit" is a credit for a class that a student did not receive a passing grade. The student may use the SEARCH Program to retake the class and earn the credit if it is needed for graduation.

⁶ "Other course [credit] that would not otherwise be available to a student" means credit for advanced courses that a student may need to get into a particular program in college or other honors or advanced placement courses that are not available in their regular public school. It does not refer to other types of elective courses which are not part of a student's work toward a particular educational program or pathway.

D. FISCAL COMMENTS:

The fiscal impact of this bill will be determined by the amount appropriated by the Legislature through the General Appropriations Act (GAA), and may also be affected by how many students choose to participate in the SEARCH Program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to expend funds.

This bill does not reduce the authority of counties or municipalities to raise revenues.

This bill does not reduce the percentage of a state tax shared with cities and counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 665

2006

A bill to be entitled

An act relating to the Florida Virtual School; amending s. 1002.37, F.S.; establishing the Students Earning Additional Recovery Credits and Honors (SEARCH) Program to provide opportunities for students to recover credits needed for graduation or to earn honors course credit or other course credit; providing for payment for additional full-time equivalent student credit to the extent funded in the General Appropriations Act; providing eligibility requirements for participation by a school district operating a virtual school that is an approved franchise of the Florida Virtual School; providing for use of funds; providing a limitation on school district funding; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (5), (6), and (7) of section 1002.37, Florida Statutes, are renumbered as subsections (6), (7), and (8), respectively, and a new subsection (5) is added to that section to read:

1002.37 The Florida Virtual School.--

(5)(a) There is established the Students Earning Additional Recovery Credits and Honors (SEARCH) Program to provide additional opportunities for students to recover credits needed for graduation or to earn honors course credit or other course credit.

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(b) To the extent funded in the General Appropriations Act, the SEARCH Program shall pay for full-time equivalent student credit in addition to credit funded by the Florida Education Finance Program under subsections (3) and (4).

(c) School districts operating a virtual school that is an approved franchise of the Florida Virtual School as described in subsection (4) and that operated the franchise for the 2004-2005 and 2005-2006 fiscal years shall be eligible in the 2006-2007 fiscal year and thereafter to participate in the SEARCH Program.

(d) SEARCH Program funds earned by students enrolled in Florida Virtual School franchises as described in subsection (4) may only be used to pay for credits earned in excess of the 25 hours per week funded by the Florida Education Finance Program to:

1. Replace credits needed for graduation;
2. Earn credits in an honors level course or other course that would not be otherwise available to the student;
3. Serve students scoring at Level 1 or Level 2 on any subject tested on the FCAT;
4. Serve homebound students; or
5. Serve students currently assigned to a Department of Juvenile Justice facility.

(e) A student may not earn funding for more than two credits in the SEARCH Program.

(f) A school district's portion of the SEARCH Program funds may not exceed the district's portion of the total unweighted full-time equivalent students enrolled in grades 9 through 12 in the participating school districts.

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Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CI 06-01 K-8 Virtual Schools
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee		Hassell	Kooi
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB 06-01 codifies in statute the K-8 Virtual School pilot program as an optional educational choice program within the Department of Education. Like the K-8 Virtual School pilot programs, the K-8 Virtual School Program is established to deliver academic instruction through the use of on-line and distance learning technology to full-time students in kindergarten through eighth grade.

The bill creates a new section of law that provides for K-8 Virtual School Program student and school eligibility requirements, application procedures, participating school responsibilities, funding mechanisms, assessment and accountability, and causes for nonrenewal or termination of contract. Additionally, this bill addresses the participation of current schools participating in the K-8 Virtual School pilot program.

The K-8 Virtual School Program is subject to annual legislative appropriation in the General Appropriations Act. The Department of Education states that it would require 4 additional FTE staff positions in order to implement the K-8 Virtual School Program. Please see the FISCAL ANALYSIS section of the analysis.

The bill allows for the State Board of Education to adopt rules to implement and administer the K-8 Virtual School Program.

The bill provides for an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the number of public school educational choice options available to K-8 public school students.

Safeguard individual liberty – The bill codifies a K-8 virtual educational choice option for parents of public school students.

Empower families – The bill provides parents of K-8 public school students with an opportunity to exercise parental choice by enrolling their child in a K-8 Virtual School program.

B. EFFECT OF PROPOSED CHANGES:

Background

In 2003, the Legislature authorized the Department of Education (DOE) to provide for the creation of at least two K-8 Virtual School pilot programs. The two pilot programs selected by the DOE were Connections Academy, Inc. and K12, Inc. The schools provide computers and help cover the cost of Internet access for their students who complete 10 to 30% of their work on-line depending on the grade level. Both of these schools utilize the parent or other responsible adult as the students' primary teachers while the virtual school teachers oversee the students' progress by checking samples of their work. These programs use on-line curriculum, lessons, and progress tests as well as books and other more traditional learning materials. A parent-teacher telephone conference is required at least once every two weeks. However, parents can reach virtual school teachers through e-mail or telephone at other times.

The 2003 and 2005 Legislature appropriated \$4,800,000 for the K-8 Virtual School pilot programs. The pilot programs were funded with grants of up to \$4,800 per student with a total enrollment not to exceed 1,000 students. The 2004 Legislature funded the grants in the same amount per student with total funding not to exceed \$3,800,000, reducing student enrollment to 800 students. However, total student enrollment for the pilot programs returned to 1,000 students with the 2005 appropriation.

Effects of Proposed Changes

PCB 06-01 codifies the K-8 Virtual School pilot program as an optional educational choice program within the Department of Education. Like the K-8 Virtual School pilot programs, the K-8 Virtual School Program is established to deliver academic instruction through the use of on-line and distance learning technology to full-time students in kindergarten through eighth grade. The bill creates a new section of law that provides for K-8 Virtual School Program student and school eligibility requirements, application procedures, participating school responsibilities, funding mechanisms, assessment and accountability, and causes for nonrenewal or termination of contract. Additionally, this bill addresses the participation of current schools in the K-8 Virtual School pilot program.

The K-8 Virtual School Program would still be subject to annual legislative appropriation. State funding for each participating school will continue to be based on total program enrollment and an amount per full-time equivalent student that is established each year in the General Appropriations Act. Consequently, until funds are appropriated it is unclear as to how many students would be able to participate in the program.

Student Eligibility

The bill provides that any K-8 student in Florida is eligible for enrollment in one of the participating K-8 Virtual Schools if the student meets one of the following conditions:

- The student has spent the prior school year in attendance at a Florida public school.
- The student was enrolled during the prior school year in a K-8 virtual school.
- The student is eligible to enroll in kindergarten or the first grade.
- The student has a sibling who is currently enrolled in a K-8 virtual school and was enrolled at the end of the prior school year.

Students enrolled in a K-8 virtual school are subject to the compulsory school attendance requirements of s. 1003.21, F.S., and must take the statewide assessments required under s.1008.22. Furthermore, the bill requires that the student's school district of residence must provide that student with access to the district's testing facilities.

School Eligibility and Application Procedures

The bill provides that schools eligible to participate in the K-8 Virtual School program include for-profit and nonprofit entities. However, an eligible school must meet all of the following conditions:

- Be nonsectarian in its programs, admission policies, employment practices, and operations.
- Comply with the antidiscrimination provisions of s. 1000.05, F.S.
- Participate in the state's performance accountability system pursuant to s. 1008.31, F.S.
- Locate its administrative office in the state and require all administrative and instructional personnel to be Florida residents.
- Require no tuition or student registration fee.

The bill requires the DOE to provide applicants with an application form in a sufficient time so that schools can apply and be approved by the DOE by the beginning of the 2007-2008 school year. Also, the bill requires the DOE to approve or deny an application within 90 days after the receipt of the application.

In addition to information that the DOE may require, the bill requires applicants to verify that they meet all eligibility criteria, that their school's instructional staff are professional educators certified pursuant to chapter 1012, and that all school employees have undergone the background screening requirement under s. 1012.32, F.S. Furthermore, the bill requires that each applicant provide the DOE with an education plan detailing how their curriculum and course content conforms to the Sunshine State Standards and a detailed annual financial plan for each year of operation for a minimum of 3 years.

Participating Schools and Pilot Schools

The bill provides for an initial 3-year contract between an approved virtual school and the DOE, subject to annual DOE review and legislative appropriation. Also, the bill provides for contract renewals for up to 5 years, subject to annual legislative appropriation.

The bill requires all schools participating in the K-8 Virtual School Program to provide each student with all necessary instructional material, each household with equipment such as a computer, monitor, and printer, and each household with access to or reimbursement for all Internet services necessary for the delivery of on-line instruction.

The bill authorizes the two K-8 Virtual School pilot programs to continue operation for the 2006-2007 school year, subject to the applicable provisions detailed in this bill. Furthermore, the bill requires the two pilot programs to apply to and be approved by the DOE in order to participate in the K-8 Virtual School Program beyond the 2006-2007 school year.

Assessment and Accountability

The bill provides that schools participating in the K-8 Virtual Schools must participate in the statewide assessments and be subject to the school grading system pursuant to s. 1008.34, F.S. Furthermore, a participating school that receives a performance grade of D or F is required to develop and file a school improvement plan with the DOE. In the event that a participating school receives a performance grade category of D or F for 2 school years in a 4-year period, the bill requires the DOE to terminate the contract.

Causes for nonrenewal or termination of contract

The bill grants the DOE authority to choose not to renew a contract or to terminate a current contract with a school participating in the K-8 Virtual School Program for any of the following reasons:

- Failure to participate in the state's performance accountability system.
- Failure to receive a school performance grade of C or better for 2 school years in a 4-year period.
- Failure to meet generally acceptable standards of financial management.
- Violation of law.
- Failure of the Legislature to fund the K-8 Virtual School Program.
- Other good cause shown.

The bill requires students who attended a school that is either not renewed or terminated to apply to and be enrolled in another public school. Also, the bill provides that the virtual school is responsible for all debts of the school in the event that it is either not renewed or terminated.

C. SECTION DIRECTORY:

Section 1. Creates s. 1002.375, F.S., establishing the K-8 Virtual School Program.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state governments.

2. Expenditures:

The K-8 Virtual School Program is subject to annual legislative appropriation in the General Appropriations Act. Operational expenses for traditional students are funded predominantly through the Florida Education Finance Program which is a combination of state and local funds.

According to the DOE analysis, the DOE would need 4 additional FTE staff positions for the implementation of this program.¹ However, the DOE currently administers and oversees the K-8 Virtual School pilot program within existing resources. Therefore, unless the funds appropriated are significantly increased, any additional costs should be minimal.

¹ Florida Department of Education, Governmental Relations Office, 2006 Legislative Bill Analysis on PCB06-01: K-8 Virtual School Program

The classifications of the 4 positions proposed by the DOE and associated recurring costs are as follows:

Program Specialist II (2)

Base Salary	33,826
Benefits	13,159
Expenses	9,746
OCO	1,900
Human Resource Services	<u>393</u>
	\$59,024 x 2 = \$118,048

Program Specialist IV (1)

Base Salary	42,655
Benefits	14,570
Expenses	9,746
OCO	1,900
Human Resource Services	<u>393</u>
	\$69,264 x 2 = \$138,528

The total recurring costs for additional staff, assuming additional funding made them necessary, would be \$256,576.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill gives the State Board of Education rulemaking authority pursuant to ss. 120.536(1) and 120.54, F.S., to adopt rules for the implementation and administration of this program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

PCB CI 06-01 -- K-8 Virtual Schools

ORIGINAL

A bill to be entitled

An act relating to K-8 virtual schools; creating s. 1002.375, F.S.; establishing the Kindergarten through Grade 8 (K-8) Virtual School Program within the Department of Education; providing student eligibility requirements; requiring enrolled students to meet compulsory school attendance requirements and participate in the statewide assessment program; providing school eligibility requirements; authorizing schools to be for-profit or nonprofit entities; providing a school application procedure; requiring applicants to verify certain information and submit certain plans; providing for 3-year contracts for approved schools and authorizing contract renewals; designating participating schools as independent schools; requiring schools to provide each student with the materials, equipment, and services necessary to receive instruction; authorizing the current pilot K-8 virtual schools to continue operation through the 2006-2007 school year; requiring pilot schools to meet all application requirements in order to operate beyond the 2006-2007 school year; requiring program funding to be established annually in the General Appropriations Act and providing a payment schedule to schools; requiring schools to participate in the statewide assessment program and be subject to the school grading system; requiring school improvement plans for low-performing schools and contract termination for continued low school performance; providing causes for nonrenewal or termination of a school contract and responsibility for debt; providing for student enrollment in another public school under certain

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

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circumstances; requiring rulemaking; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1002.375, Florida Statutes, is created to read:

1002.375 K-8 Virtual School Program.--

(1) K-8 VIRTUAL SCHOOL PROGRAM.--Subject to annual legislative appropriation, the Kindergarten through Grade 8 (K-8) Virtual School Program is established within the Department of Education for the purpose of making academic instruction available to full-time students in kindergarten through grade 8 using on-line and distance learning technology. The department must use an application process to select schools to participate in the program and to deliver program instruction.

(2) STUDENT ELIGIBILITY.--

(a) Enrollment in each participating school is open to any K-8 student in the state provided the student meets at least one of the following conditions:

1. The student has spent the prior school year in attendance at a Florida public school. Prior year school attendance means the student was enrolled and reported by a public school district for funding during the preceding October and February Florida Education Finance Program surveys.

2. The student was enrolled during the prior school year in a K-8 virtual school funded pursuant to this section or the 2005-2006 General Appropriations Act.

3. The student is eligible to enroll in kindergarten or the first grade.

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4. The student has a sibling who is currently enrolled in a participating K-8 virtual school and was enrolled at the end of the prior school year.

(b) Students enrolled in a participating K-8 virtual school are subject to the compulsory school attendance requirements of s. 1003.21. Student attendance must be verified according to department procedures.

(c) Each student enrolled in a participating K-8 virtual school must take the statewide assessments required under s. 1008.22 within the student's school district of residence, which must provide that student with access to the district's testing facilities.

(3) SCHOOL ELIGIBILITY.--

(a) To be eligible to participate in the K-8 Virtual School Program, a school must meet the following conditions:

1. Be nonsectarian in its programs, admission policies, employment practices, and operations.

2. Comply with the antidiscrimination provisions of s. 1000.05.

3. Participate in the state's performance accountability system created under s. 1008.31.

4. Locate its administrative office in the state and require its administrative and instructional staff members to be state residents.

5. Require no tuition or student registration fee.

(b) Schools applying to participate in the K-8 Virtual School Program may be for-profit or nonprofit entities.

(4) APPLICATION PROCEDURES.--

(a) The department must provide an application form to be completed by schools seeking to participate in the K-8 Virtual

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School Program. Initial application forms must be made available in sufficient time to enable schools to apply and be approved to participate in the program by the beginning of the 2007-2008 school year. In addition to information that may be required by the department, each applicant must provide verification that:

1. The applicant meets the eligibility criteria required by this section.

2. All members of the school's instructional staff are professional educators certified according to the provisions of chapter 1012.

3. All school employees have undergone background screening as required by s. 1012.32.

(b) In addition to a completed application form, each applicant must provide the department with:

1. A detailed plan describing how the school curriculum and course content will conform to the Sunshine State Standards.

2. An annual financial plan for each year of operation of the school for a minimum of 3 years. The plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

(c) The department must approve or deny a school's participation in the K-8 Virtual School Program within 90 days after the receipt of an application.

(5) PARTICIPATING SCHOOLS.--

(a) A school approved by the department to participate in the K-8 Virtual School Program must receive an initial 3-year contract with the department to provide program services, subject to annual department review and legislative appropriation.

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Contract renewals may be for up to 5 years upon agreement of both parties, contingent upon annual funding in the General Appropriations Act.

(b) A school approved to participate in the program is deemed to be an independent virtual school, providing on behalf of the state a full-time, 180-day, on-line program of instruction to students in kindergarten through grade 8.

(c) A school approved to participate in the program must provide each student with:

1. All necessary instructional materials.
2. All equipment, including, but not limited to, a computer, computer monitor, and printer for each household that has a student enrolled in the virtual school.
3. Access to or reimbursement for all Internet services necessary for on-line delivery of instruction for each household that has a student enrolled in the virtual school.

(6) PILOT SCHOOLS.--

(a) The two pilot K-8 virtual schools for which funding was provided in the 2005-2006 General Appropriations Act are authorized to continue operation for the 2006-2007 school year.

(b) With the exception of the application and contracting requirements, the pilot schools are subject to the provisions of this section for the 2006-2007 school year.

(c) Each pilot school must complete the application requirements of this section and be approved by the department in order to participate in the K-8 Virtual School Program beyond the 2006-2007 school year.

(7) FUNDING.--

(a) State funding for each participating K-8 virtual school must be based on total program enrollment and an amount per full-

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time equivalent student established annually in the General Appropriations Act.

(b) Upon proper documentation of student enrollment reviewed and approved by the department, payments must be made to participating K-8 virtual schools in four equal payments no later than September 1, November 1, February 1, and April 15 of each academic year. The initial payment must be made after department verification of student admission acceptance, and subsequent payments must be made upon verification of continued enrollment and attendance.

(8) ASSESSMENT AND ACCOUNTABILITY.--

(a) Each participating K-8 virtual school must participate in the statewide assessment program created under s. 1008.22 and be subject to the school grading system created under s. 1008.34.

(b) A participating K-8 virtual school with a performance grade category of "D" or "F" must file a school improvement plan with the department for consultation to determine the causes for low performance and to develop a plan for correction and improvement.

(c) The department must terminate the contract of any K-8 virtual school receiving a performance grade category of "D" or "F" for 2 school years in a 4-year period.

(9) CAUSES FOR NONRENEWAL OR TERMINATION OF CONTRACT.--

(a) At the end of a contract with a K-8 virtual school, the department may choose not to renew the contract on any of the following grounds:

1. Failure to participate in the state's performance accountability system created under s. 1008.31, as required in this section.

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2. Failure to receive a school performance grade category of "C" or better under the school grading system created under s. 1008.34 for 2 school years in a 4-year period.

3. Failure to meet generally accepted standards of fiscal management.

4. Violation of law.

5. Failure of the Legislature to fund the K-8 Virtual School Program.

6. Other good cause shown.

(b) During the term of a contract, the department may terminate the contract on any of the grounds listed in paragraph (a).

(c) If a contract is not renewed or is terminated, the K-8 virtual school is responsible for all debts of the school.

(d) If a contract is not renewed or is terminated, a student who attended the school may apply to and shall be enrolled in another public school.

(10) RULES.--The State Board of Education shall adopt rules under ss. 120.536(1) and 120.54 as may be necessary to implement and administer this section.

Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 429 Florida School for the Deaf and the Blind
SPONSOR(S): Proctor and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1014

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Choice & Innovation Committee</u>	<u></u>	<u>Hassell</u>	<u>Kooi</u>
2) <u>Education Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill aligns the Florida School for the Deaf and the Blind (FSDB) mission statement with No Child Left Behind, the Individuals with Disabilities Education Improvement Act (IDEA 2004), and current State Board of Education (SBE) rules regarding exceptional student education.

The bill authorizes the FSDB to provide outreach education services to hearing-impaired and visually impaired children ages birth through 5 upon request from a school district. This proposed change will serve to increase the district's ability to provide appropriate services to children with sensory impairments. Also, those school districts that may not have been receiving services under the small and rural initiative will be able to request and receive outreach services from the FSDB for children with sensory impairments.

The bill revises the board of trustees' powers and duties relating to the requirements for expenditure of gifts, donations, or bequests. The bill exempts the FSDB's use of these funds from state purchasing requirements, per diem travel and expenses, and compensation of lobbyists. The bill clarifies that the FSDB projections of facility space needs may exceed the norm space and occupant design criteria established in the State Requirement for Educational Facilities (SREF). Additionally, it adds the FSDB to the required need assessment criteria for district, community college, college and state university plant surveys so that the FSDB will be able to include space needs that deviate from approved standards for determining space needs for approved educational programs.

The bill also authorizes campus police officers to enforce traffic laws within the boundaries of the campus and removes the provision that authorizes the bonding of campus police officers.

The bill should have minimal or no fiscal impact. See the FISCAL COMMENTS section of the analysis.

The act shall take effect on July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the availability and types of outreach education services that a school district may offer families with hearing-impaired and visually impaired children.

Empower families – The bill increases a school district's ability to provide appropriate types of outreach education services to families with hearing-impaired and visually impaired children.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida School for the Deaf and the Blind (FSDB) is a state-supported residential public school for hearing-impaired and visually impaired students in preschool through 12th grade. As a component of the delivery of public education within Florida's K-20 education system, the FSDB provides educational programs and support services appropriate to meet the education and related evaluation and counseling needs of hearing-impaired and visually impaired students who meet enrollment criteria. As a school of excellence, the FSDB's mission states that it "strives to provide students with an opportunity to maximize their individual potential in a caring, safe, unique learning environment to prepare them to be literate, employable, and independent lifelong learners."¹

Current law provides that outreach education services may be provided to children ages birth through 5 with sensory impairments and their parents. However, some school districts also provide such services under Part C of the IDEA 2004. According to the Department of Education, the Outreach Services division at the FSDB currently provides services directly to children and families through the Parent-Infant Program (ages birth – 5) and to some small and rural school districts through the Small and Rural District Initiative (ages 3 – 22).²

Current law provides for the board of trustees' powers and duties relating to the requirements for expenditure of funds, including moneys received as gifts, donations, or bequests. Currently, the FSDB board of trustees may not compensate those persons who lobby before the House of Representative or the Senate with moneys received as gifts, donations, or bequests. Also, the board of trustees must require all purchases, including those purchases made with moneys received as gifts, donations, or bequests, to be made in accordance with state purchasing requirements and state per diem travel and expenses requirements.³

Effects of Proposed Changes

The bill removes the phrase "maximize their individual potential" in the FSDB mission statement and replaces it with "maximize individual potential." This change aligns the FSDB mission statement with No Child Left Behind, the Individuals with Disabilities Education Improvement Act (IDEA 2004), and current State Board of Education (SBE) rules. Thus, this change makes the law consistent with Federal and state regulations regarding exceptional student education.

The bill authorizes the FSDB to provide outreach education services to hearing-impaired and visually impaired children ages birth through 5 upon request from a school district. This proposed change will

¹ s. 1002.36(2), F.S.

² Florida Department of Education, Governmental Relations Office, 2006 Legislative Bill Analysis on HB 429: The Florida School for the Deaf and the Blind

³ Chapter 287--Commodities, Insurance, and Contractual Services and s. 112.061, F.S.

serve to increase the district's ability to provide appropriate education services to children with sensory impairments. Also, those school districts that may not have been receiving services under the small and rural initiative will be able to request and receive outreach services from the FSDB for children with sensory impairments.

The bill clarifies that the FSDB projections of facility space needs may exceed the norm space and occupant design criteria established in the State Requirement for Educational Facilities (SREF). Also, the bill adds the FSDB to the required need assessment criteria for district, community college, college and state university plant surveys so that the school will be able to include space needs that deviate from approved standards for determining space needs for approved educational programs. These are technical changes because the school's current spaces exceed the norm due to the nature and type of school and the school was previously exempted from the physical space requirements within the Florida Administrative Code.

The bill revises the board of trustees' powers and duties relating to the requirements for expenditure of gifts, donations, or bequests. The bill removes the provision relating to the compensation of those persons that lobby before the House of Representatives and the Senate and revises the provisions relating to state purchasing requirements and per diem travel and expenses. These funds, known as Endowment funds, are moneys received as gifts, donations, or bequests, funds raised by or belonging to student clubs or student organizations, or funds held for specific students or in accounts for individual students and are tax exempt. The FSDB would be able to use the Endowment funds for legislative liaison activities, to support programs not supported by state funding, and for program purchases and travel related expenses not covered by state funding.

The bill authorizes campus police officers to enforce traffic laws within the boundaries of the campus, a specific authority that is granted to university, community college, and school district campus police under s.316.640, F.S. It also removes the provision that authorizes the bonding of campus police officers because this requirement has been replaced by accidental death and insurance coverage.

C. SECTION DIRECTORY:

Section 1. Amends s. 1002.36, F.S., relating to the Florida School for the Deaf and the Blind; amending provision related to education services; revising powers and duties of the Board of Trustees; and revising provision related to campus police officers.

Section 2. Amends s. 1013.31, F.S., relating to educational plant surveys.

Section 3. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill exempts the FSDB's use of Endowment funds from state purchasing requirements, per diem travel and expenses, and compensation of lobbyists, thereby increasing the flexibility in which the FSDB may utilize of such funds.

D. FISCAL COMMENTS:

School districts are responsible for providing educational services or access to such services for hearing-impaired and visually impaired children ages birth through 5. Thus, a request by a school district to for FSDB to provide outreach educational services for sensory impaired students should have minimal or no fiscal effect.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not grant additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled

An act relating to the Florida School for the Deaf and the Blind; amending s. 1002.36, F.S.; authorizing the provision of education services to district school boards upon request; revising powers and duties of the Board of Trustees for the Florida School for the Deaf and the Blind relating to requirements for expenditure of certain funds and submission of capital outlay budget requests; authorizing campus police officers to enforce traffic laws; deleting provisions authorizing bonding of campus police officers; amending s. 1013.31, F.S.; including reference to the Florida School for the Deaf and the Blind in provisions relating to educational plant surveys; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (2), paragraphs (e) and (f) of subsection (4), and paragraphs (b) and (d) of subsection (8) of section 1002.36, Florida Statutes, are amended to read:

1002.36 Florida School for the Deaf and the Blind.--

(1) RESPONSIBILITIES.--The Florida School for the Deaf and the Blind, located in St. Johns County, is a state-supported residential public school for hearing-impaired and visually impaired students in preschool through 12th grade. The school is a component of the delivery of public education within Florida's K-20 education system and shall be funded through the Department of Education. The school shall provide educational programs and

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support services appropriate to meet the education and related evaluation and counseling needs of hearing-impaired and visually impaired students in the state who meet enrollment criteria. Unless otherwise provided by law, the school shall comply with all laws and rules applicable to state agencies. Education services may be provided on an outreach basis for sensory-impaired children ages 0 through 5 years and to district school boards upon request ~~their parents~~. Graduates of the Florida School for the Deaf and the Blind shall be eligible for the William L. Boyd, IV, Florida Resident Access Grant Program as provided in s. 1009.89.

(2) MISSION.--The mission of the Florida School for the Deaf and the Blind is to utilize all available talent, energy, and resources to provide free appropriate public education for eligible sensory-impaired students of Florida. As a school of academic excellence, the school shall strive to provide students an opportunity to access education services ~~maximize their individual potential~~ in a caring, safe, unique learning environment to prepare them to be literate, employable, and independent lifelong learners. The school shall provide outreach services that include collaboration with district school boards and shall encourage input from students, staff, parents, and the community. As a diverse organization, the school shall foster respect and understanding for each individual.

(4) BOARD OF TRUSTEES.--

(e) The board of trustees is invested with full power and authority to:

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- 56 1. Appoint a president, faculty, teachers, and other
57 employees and remove the same as in its judgment may be best and
58 fix their compensation.
- 59 2. Procure professional services, such as medical, mental
60 health, architectural, and engineering.
- 61 3. Procure legal services without the prior written
62 approval of the Attorney General.
- 63 4. Determine eligibility of students and procedure for
64 admission.
- 65 5. Provide for the students of the school necessary
66 bedding, clothing, food, and medical attendance and such other
67 things as may be proper for the health and comfort of the
68 students without cost to their parents, except that the board of
69 trustees may set tuition and other fees for nonresidents.
- 70 6. Provide for the proper keeping of accounts and records
71 and for budgeting of funds.
- 72 7. Enter into contracts.
- 73 8. Sue and be sued.
- 74 9. Secure public liability insurance.
- 75 10. Do and perform every other matter or thing requisite
76 to the proper management, maintenance, support, and control of
77 the school at the highest efficiency economically possible, the
78 board of trustees taking into consideration the purposes of the
79 establishment.
- 80 11. Receive gifts, donations, and bequests of money or
81 property, real or personal, tangible or intangible, from any
82 person, firm, corporation, or other legal entity. However, the
83 board of trustees may not obligate the state to any expenditure

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84 or policy that is not specifically authorized by law. If the
85 bill of sale, will, trust indenture, deed, or other legal
86 conveyance specifies terms and conditions concerning the use of
87 such money or property, the board of trustees shall observe such
88 terms and conditions.

89 12. Deposit outside the State Treasury such moneys as are
90 received as gifts, donations, or bequests and may disburse and
91 expend such moneys, upon its own warrant, for the use and
92 benefit of the Florida School for the Deaf and the Blind and its
93 students, as the board of trustees deems to be in the best
94 interest of the school and its students. Such money or property
95 shall not constitute or be considered a part of any legislative
96 appropriation, ~~and such money shall not be used to compensate~~
97 ~~any person for engaging in lobbying activities before the House~~
98 ~~of Representatives or Senate or any committee thereof.~~

99 13. Sell or convey by bill of sale, deed, or other legal
100 instrument any property, real or personal, received as a gift,
101 donation, or bequest, upon such terms and conditions as the
102 board of trustees deems to be in the best interest of the school
103 and its students.

104 14. Invest such moneys in securities enumerated under s.
105 215.47(1), (2)(d), (3), (4), and (9), and in The Common Fund, an
106 Investment Management Fund exclusively for nonprofit educational
107 institutions.

108 (f) The board of trustees shall:

109 1. Prepare and submit legislative budget requests for
110 operations and fixed capital outlay, in accordance with chapter
111 216 and ss. 1011.56 and 1013.60, to the Department of Education

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for review and approval. The department must analyze the amount requested for fixed capital outlay to determine if the request is consistent with the school's campus master plan, educational plant survey, and facilities master plan. Projections of facility space needs may exceed the norm space and occupant design criteria established in the State Requirements for Educational Facilities.

2. Approve and administer an annual operating budget in accordance with ss. 1011.56 and 1011.57.

3. Require all funds received other than gifts, donations, bequests, funds raised by or belonging to student clubs or student organizations, and funds held for specific students or in accounts for individual students to be deposited in the State Treasury and expended as authorized in the General Appropriations Act.

4. Require all purchases to be in accordance with the provisions of chapter 287 except for purchases made with funds received as gifts, donations, or bequests, funds raised by or belonging to student clubs or student organizations, or funds held for specific students or in accounts for individual students.

5. Administer and maintain personnel programs for all employees of the board of trustees and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. 110.205(2)(d) and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter 110, and the provisions of law that grant authority

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to the Department of Management Services over such programs for state employees.

6. Give preference in appointment and retention in positions of employment as provided within s. 295.07(1).

7. Ensure that the Florida School for the Deaf and the Blind complies with s. 1013.351 concerning the coordination of planning between the Florida School for the Deaf and the Blind and local governing bodies.

8. Ensure that the Florida School for the Deaf and the Blind complies with s. 112.061 concerning per diem and travel expenses of public officers, employees, and authorized persons with respect to all funds other than funds received as gifts, donations, or bequests, funds raised by or belonging to student clubs or student organizations, or funds held for specific students or in accounts for individual students.

9. Adopt a master plan which specifies the mission and objectives of the Florida School for the Deaf and the Blind. The plan shall include, but not be limited to, procedures for systematically measuring the school's progress toward meeting its objectives, analyzing changes in the student population, and modifying school programs and services to respond to such changes. The plan shall be for a period of 5 years and shall be reviewed for needed modifications every 2 years. The board of trustees shall submit the initial plan and subsequent modifications to the Speaker of the House of Representatives and the President of the Senate.

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10. Designate a portion of the school as "The Verle Allyn Pope Complex for the Deaf," in tribute to the late Senator Verle Allyn Pope.

(8) CAMPUS POLICE.--

(b) Each Florida School for the Deaf and the Blind campus police officer is a law enforcement officer of the state and a conservator of the peace who has the authority to arrest, in accordance with the laws of this state, any person for a violation of state law or applicable county or municipal ordinance if that violation occurs on or in any property or facilities of the school. A campus police officer may also arrest a person off campus for a violation committed on campus after a hot pursuit of that person which began on campus. A campus police officer shall have full authority to bear arms in the performance of the officer's duties and carry out a search pursuant to a search warrant on the campus. Florida School for the Deaf and the Blind campus police, upon request of the sheriff or local police authority, may serve subpoenas or other legal process and may make arrests of persons against whom arrest warrants have been issued or against whom charges have been made for violations of federal or state laws or county or municipal ordinances. Campus police officers shall have authority to enforce traffic laws within the boundaries of the campus in accordance with s. 316.640.

(d) The campus police must meet the minimum standards established by the Criminal Justice Standards and Training Commission of the Department of Law Enforcement and chapter 943 for law enforcement officers. Each campus police officer must,

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194 before entering into the performance of the officer's duties,
 195 take the oath of office established by the board of trustees.
 196 ~~The board of trustees may obtain and approve a bond on each~~
 197 ~~campus police officer, conditioned upon the officer's faithful~~
 198 ~~performance of the officer's duties, which bond must be payable~~
 199 ~~to the Governor. The board of trustees may determine the amount~~
 200 ~~of the bond. In determining the amount of the bond, the board~~
 201 ~~may consider the amount of money or property likely to be in the~~
 202 ~~custody of the officer at any one time. The board of trustees~~
 203 must provide a uniform set of identifying credentials to each
 204 campus police officer it employs.

205 Section 2. Paragraph (b) of subsection (1) of section
 206 1013.31, Florida Statutes, is amended to read:

207 1013.31 Educational plant survey; localized need
 208 assessment; PECO project funding.--

209 (1) At least every 5 years, each board shall arrange for
 210 an educational plant survey, to aid in formulating plans for
 211 housing the educational program and student population, faculty,
 212 administrators, staff, and auxiliary and ancillary services of
 213 the district or campus, including consideration of the local
 214 comprehensive plan. The Office of Workforce and Economic
 215 Development shall document the need for additional career and
 216 adult education programs and the continuation of existing
 217 programs before facility construction or renovation related to
 218 career or adult education may be included in the educational
 219 plant survey of a school district or community college that
 220 delivers career or adult education programs. Information used by
 221 the Office of Workforce and Economic Development to establish

222 facility needs must include, but need not be limited to, labor
223 market data, needs analysis, and information submitted by the
224 school district or community college.

225 (b) Required need assessment criteria for district,
226 community college, college and state university, and Florida
227 School for the Deaf and the Blind plant surveys.--Educational
228 plant surveys must use uniform data sources and criteria
229 specified in this paragraph. Each revised educational plant
230 survey and each new educational plant survey supersedes previous
231 surveys.

232 1. The school district's survey must be submitted as a
233 part of the district educational facilities plan defined in s.
234 1013.35. To ensure that the data reported to the Department of
235 Education as required by this section is correct, the department
236 shall annually conduct an onsite review of 5 percent of the
237 facilities reported for each school district completing a new
238 survey that year. If the department's review finds the data
239 reported by a district is less than 95 percent accurate, within
240 1 year from the time of notification by the department the
241 district must submit revised reports correcting its data. If a
242 district fails to correct its reports, the commissioner may
243 direct that future fixed capital outlay funds be withheld until
244 such time as the district has corrected its reports so that they
245 are not less than 95 percent accurate.

246 2. Each survey of a special facility, joint-use facility,
247 or cooperative career education facility must be based on
248 capital outlay full-time equivalent student enrollment data
249 prepared by the department for school districts, community

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colleges, colleges, and universities. A survey of space needs of a joint-use facility shall be based upon the respective space needs of the school districts, community colleges, colleges, and universities, as appropriate. Projections of a school district's facility space needs may not exceed the norm space and occupant design criteria established by the State Requirements for Educational Facilities.

3. Each community college's survey must reflect the capacity of existing facilities as specified in the inventory maintained by the Department of Education. Projections of facility space needs must comply with standards for determining space needs as specified by rule of the State Board of Education. The 5-year projection of capital outlay student enrollment must be consistent with the annual report of capital outlay full-time student enrollment prepared by the Department of Education.

4. Each college and state university's survey must reflect the capacity of existing facilities as specified in the inventory maintained and validated by the Division of Colleges and Universities. Projections of facility space needs must be consistent with standards for determining space needs approved by the Division of Colleges and Universities. The projected capital outlay full-time equivalent student enrollment must be consistent with the 5-year planned enrollment cycle for the State University System approved by the Division of Colleges and Universities.

5. The district educational facilities plan of a school district and the educational plant survey of a community

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278 college, ~~or~~ college or state university, or the Florida School
279 for the Deaf and the Blind may include space needs that deviate
280 from approved standards for determining space needs if the
281 deviation is justified by the district or institution and
282 approved by the department, as necessary for the delivery of an
283 approved educational program.

284 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 765
SPONSOR(S): Jennings
TIED BILLS:

Discounted Computers and Internet Access for Students

IDEN./SIM. BILLS: SB 502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee		Hunker	Kooi
2) Education Appropriations Committee			
3) Education Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill creates a program to offer computers and broadband Internet access at a discounted price to students enrolled in grades 5 through 12. The program requires the Department of Education (DOE) to negotiate with computer manufacturers and nonprofit corporations that obtain reconditioned computer hardware over the prices, hardware and software packages, warranties, and internet access packages. The bill directs the State Board of Education to make rules regarding implementation of the program.

The bill also creates a pilot project to be implemented by the Digital Divide Council in consultation with DOE to assist low-income students in purchasing discounted computers and Internet access services as negotiated by the department. The pilot project is to be funded in an amount determined by the General Appropriations Act, and the Digital Divide Council may accept additional grants from public and private sources to implement the project.

The fiscal impact of the bill would be minimal. See the FISCAL COMMENTS section of the analysis.

The bill states that it shall take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill grants rulemaking authority to the State Board of Education to implement the discounted computers and internet program.

Empower Families – This bill benefits parents of public school students in grades 5 through 12 by providing them with an option to purchase discounted computers and internet packages negotiated by the Department of Education (DOE).

B. EFFECT OF PROPOSED CHANGES:

The 2005-2006 fiscal year budget provided \$49.9 million for public school technology, which is allocated to districts on a per-student basis. Districts use the funds for a number of technology needs and initiatives. Currently, there is no statewide program that provides students with discounted computers and internet access or that provides assistance to low-income students for the purchase of a computer and internet access.

This bill requires DOE to negotiate with computer manufacturers and with nonprofit corporations that obtain reconditioned computer hardware concerning prices of discounted computers and accessories, specialized software and hardware packages, and warranties. Also, the DOE is required to negotiate with broadband Internet access providers the prices of broadband Internet access packages and with non-broadband internet access providers in areas where broadband internet access is unavailable.

The bill requires the State Board of Education to adopt rules that provide for the integration of computer or technical training to students, the notification to parents of the discounted computer and Internet access choices available, the distribution of eligibility certificates, the locations where the discounted computers and Internet services are available, and how students may obtain and pay for the equipment and services.

The bill also creates a pilot project to be implemented by the Digital Divide Council in consultation with the DOE.¹ The bill creates this program to assist low-income students to purchase the discounted computers and Internet access services as negotiated by the DOE. The Digital Divide Council is required to identify the counties, grade levels, and low-income eligibility criteria for participation in the pilot project. The bill provides that the pilot project shall be funded through the General Appropriations Act and that the Digital Divide Council may accept grants from additional public and private sources to implement the project.

C. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law to establish a program to offer computers and internet access to students at a discounted price.

Section 2: Creates an unnumbered section of law to establish a pilot project to provide computers and internet access to low-income students at a discounted price. References funding provided in the General Appropriations Act.

¹ The Digital Divide Council was established by the 2001 Legislature and was created within the State Technology Office (STO). The STO was abolished in the 2005 Legislature Session; however, the Council is presently reorganizing under new council membership and will focus much of its future work on the coordination of multiple initiatives and funding streams from local and state organizations to impact technology literacy, accessibility, and learning for struggling and low income students and their families. *Senate Staff Analysis and Economic Impact Statement: SB 502, prepared by the Education Committee, 2006.*

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may create an opportunity for parent-consumers to purchase computers and Internet services that would not otherwise exist. The manufacturers and non-profit organizations providing the computers may make sales to parent-consumers that would not otherwise have taken place.

D. FISCAL COMMENTS:

There will be an increase in state government expenditures to the extent the program and pilot project are funded by the General Appropriations Act (GAA).

There may be an indeterminate cost to the Department of Education for the costs associated with organizing the program, negotiating prices with computer manufacturers and internet service providers, and providing computer and technical training to students.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

This bill does not reduce the authority of counties or municipalities to raise revenues.

This bill does not reduce the percentage of a state tax shared with cities and counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules regarding integration of the pilot program into training students at the district level. It also directs the State Board of Education to make rules on notifying parents of the discounted computer and Internet access choices available, the distribution of eligibility certificates to students, and how and where computers and internet access service will be made available for purchase.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled

An act relating to discounted computers and Internet access for students; creating a program to offer discounted computers and Internet access to public school students and students in home education programs in grades 5 through 12; requiring the Department of Education to negotiate terms with computer manufacturers, certain nonprofit corporations, and broadband Internet access providers; requiring the State Board of Education to adopt rules, including rules for provision of technical training to students; requiring the Digital Divide Council to implement a pilot project to assist low-income students with purchasing discounted computers and Internet access services; requiring the council to identify eligibility criteria for participation in the pilot project; providing for funding and authorizing the council to accept grants to implement the pilot project; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Discounted computers and Internet access for students.--

(1) There is created a program to offer computers and Internet access at a discounted price to students enrolled in grades 5 through 12 in a public school, including a charter school, or a home education program in the state.

(2) The Department of Education shall negotiate with

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29 computer manufacturers and with nonprofit corporations that
30 obtain reconditioned computer hardware concerning:

31 (a) The prices of discounted computers and whether
32 computer accessories such as printers or scanners will be
33 offered to the students at reduced prices.

34 (b) Specialized software and hardware packages, including,
35 but not limited to:

36 1. A word processor.

37 2. Software and hardware necessary to enable broadband
38 Internet access.

39 3. An operating system.

40 (c) The type of warranty that is to be provided to the
41 students and whether an extended warranty will be available to
42 the students and under what terms.

43 (3) The Department of Education shall negotiate with
44 broadband Internet access providers concerning the prices of
45 discounted broadband Internet access packages. In areas in which
46 broadband Internet access is not currently available, the
47 department shall negotiate with non-broadband Internet access
48 providers.

49 (4) The State Board of Education shall adopt rules
50 concerning:

51 (a) How to integrate into this program the provision of
52 computer or technical training to students in their respective
53 school districts.

54 (b) How parents and students may be notified of the
55 discounted computer and Internet access choices available.

56 (c) The distribution of eligibility certificates to the

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57 students, the locations at which discounted computers and
 58 Internet access services are available for purchase, and how
 59 students may obtain and pay for the equipment and services
 60 covered by this program.

61 Section 2. Discounted computers and Internet access for
 62 low-income students; pilot project.--

63 (1) The Digital Divide Council, in consultation with the
 64 Department of Education, shall implement a pilot project to
 65 assist low-income students to purchase discounted computers and
 66 Internet access services as negotiated by the department. The
 67 council shall identify counties, grade levels, and low-income
 68 eligibility criteria for participation in the pilot project.

69 (2) The pilot project shall be funded in an amount to be
 70 determined in the General Appropriations Act. The Digital Divide
 71 Council is authorized to accept grants from additional public
 72 and private sources to implement the pilot project.

73 Section 3. This act shall take effect July 1, 2006.